In the Supreme Court of the United States

No. 73-1012

GULF OIL CORPORATION, UNION OIL COMPANY OF CALIFORNIA, INDUSTRIAL ASPHALT, INC., and EDGINGTON OIL COMPANY,

Petitioners,

vs.

COPP PAVING COMPANY, INC., COPP EQUIPMENT COMPANY, INC., and ERNEST A. COPP,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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PETITION FOR WRIT OF CERTIORARI FILED DECEMBER 28, 1973

WRIT OF CERTIORARI GRANTED MARCH 25, 1974

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Relevant Docket Entries in the United States Court of Appeals for the Ninth Circuit
(No. 72-2152)

June 30, 1972	Filed Order (Koelsch & Wright) granting Appellants leave to appeal under 1292(b) & F.R.A.P.
June 30, 1972	Docketed cause and entered appearances of counsel.
August 14, 1972	Filed certified transcript of record on appeal in eleven (11) volumes: Vols. 1-9, Pleadings, original only; Vols. 10 & 11, Reporter's Transcript, original and one copy. Filed original exhibits in two boxes in Room 219.
September 26, 1972	Filed 25 Appellants' Brief.
October 19, 1972	Filed Motion and Order (Duniway) extending time to file appellees' (Union Oil & Sully-Miller, et al.) brief to December 5, 1972. Subject to reconsideration if opposition is filed in 7 days.
December 5, 1972	Filed 25 Appellees' Brief.
December 26, 1972	Filed Motion and Order (Chambers) extending time to file appellants' reply brief to January 29, 1973.
February 5, 1973	Filed Stipulation and Order (Chambers) extending time to file appellants' reply brief to February 5, 1973.
February 5, 1973	Filed 25 Appellants' Reply Brief.
May 16, 1973	Filed Order (Carter, Goodwin, Ferguson) granting appellants' motion to modify Appellants' Reply Brief, striking paragraph V, pages 28 & 29.
June 15, 1973	Argued and submitted to Carter, Goodwin, Ferguson.

October 3, 1973	Ordered Opinion (Goodwin) filed and judgment to be filed and entered.
October 3, 1973	Filed Opinion—reversed and remanded.
October 3, 1973	Filed & entered Judgment.
October 24, 1973	Filed Order (Goodwin) staying issuance of mandate to November 23, 1973.
November 28, 1973	Filed Order (Goodwin) staying issuance of mandate to December 23rd.
December 27, 1973	Filed Order (Goodwin) staying issuance of mandate to January 2, 1974.
January 4, 1974	Advised by Supreme Court (Lorson) that petition for certiorari filed 12/28, S.C. #73-1012.
January 9, 1974	Received notice from Clerk, Supreme Court re filing petition for writ of certiorari, S.C. #73-1012.
April 1, 1974	Filed certified copy of Supreme Court Order granting certiorari, 3/25/74.

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United States District Court
Central District of California

Civil Action No. 70-1394-DWW

[Filed June 24, 1970]

Copp Paving Company, Inc.
Copp Equipment Company, Inc.
Ernest A. Copp,
Plaintiffs,

vs.

Gulf Oil Company, Union Oil Company of California, & Industrial Asphalt, Inc. Sully Miller Contracting Company,
Defendants.

COMPLAINT FOR RELIEF UNDER THE SHERMAN ANTI-TRUST ACT, THE CLAYTON ACT. JURY TRIAL DEMANDED

Plaintiff alleges as follows:

Count I

This complaint is filed and this action arises under the Anti-Trust Laws of the United States, more particularly as follows: Under Section 2 of the Act of Congress of July 2, 1890 [Chapter 647, 26, Stat. 209 (15 U.S.C.2)] as amended, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and

Monopolies," commonly known as the Sherman Act, and under Sections 4, 7 and 12 of the Act of Congress of October 15, 1914 [Chapter 323, 38 Stat. 731, 736 (154 U.S.C. 15, —22)] as amended entitled "An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies and for Other Purposes," commonly known as the Clayton Act, and under 28 U.S.C. 13, 37, as hereinafter more fully appears, in order to recover damages against defendants and each of them for injury to plaintiff in their business or property resulting from the defendants and each of their violation of the Anti-Trust Laws of the United States.

Count II

Defendants and each of them have offices transacting businesses and are found within the Central District of California. The violation of law hereinafter described has been and is being carried on within this district.

DEFENDANTS

Count III

Gulf Oil Company, hereinafter referred to as "Gulf" is made a defendant herein. Gulf is organized and existing under the laws of the State of Delaware, has its principal place of business in Los Angeles, California, and is an integrated oil producer, refiner and marketeer. Gulf owns one hundred percent (100%) of defendant, Industrial Asphalt, Inc.

Count IV

Defendant Union Oil Company of California, was incorporated in California on November 17, 1890, has its principal place of business in Los Angeles, California. Union Oil Company is an integrated oil producer, refiner and marketeer. Union is tenth in size among United States oil companies, operates nine refineries

with approximately 382,000 barrels per day capacity, 1500 wholesale and bulk distributorship facilities, 18,300 service stations and other rental outlets.

Count V

Industrial Asphalt, Inc., is a wholly owned subsidiary of Gulf Oil Company, was incorporated in California in 1963 and has its principal place of business in Van Nuys. In 1963 Gulf purchased Industrial Asphalt for stock. Industrial is primarily in the construction business and operates several hot plants. The location of Industrial's operations are as follows:
Orange County, Los Angeles County, Ventura County, San Luis Obispo, West Los Angeles Area, San Bernardino County, Riverside County and San Diego County.

Count VI

Defendant Sully Miller Contracting Company is a wholly owned subsidiary of Union Oil Company of California, was incorporated in California in 1923 and its principal place of business is Long Beach, California. Sully Miller is primarily in the business of operating asphaltic concrete "hot plants" and contracting street improvements.

Count VII

Copp Paving Company, Inc. was incorporated in the State of California on June 1, 1956, and its principal place of business is at 11710 East 166th Street, Artesia, California.

Count VIII

Plaintiff Copp Equipment Company, Inc., was incorporated on November 20, 1956, and its principal place of business is 11700 East 166th Street, Artesia, California.

Count IX

Plaintiff, Ernest A. Copp, started the business under the name of Copp Paving Company in June, 1954.

Plaintiffs are primarily engaged in the grading and paving of streets. During the period of 1954 to 1960, Copp Paving Company bought most of its asphalt paving materials from Industrial Asphalt and during this same period was one of its bigger accounts.

TRADING AND COMMERCE

Count X

Asphaltic concrete paving materials are made by combining hot, crushed rock, sand, a cement-like filler and hot asphaltic oil into a homogenous mass in a mixing plant, commonly called a "hot plant". The rock and sand are purchased from a rock plant. The oil is purchased from an oil company. Upon arrival of the rock and sand at the "hot plant", it is dumped into a stockpile bunker according to size and type of material. The stockpiles are at ground level and the material is dumped into a hopper which conveys the material overhead to the correct stockpile. This system is known as a "stacker." The filler is stored in a cement silo. The asphaltic oil is delivered hot in insulated trucks and deposited into heated and insulated underground oil tanks in the plant. The various compounds are subsequently mixed at approximately 375° and the hot mixed asphalt is discharged into a dump truck. The truck then delivers the asphalt to the particular job. The area of trade involved also includes the general contracting area; primarily, streets, roadways and parking lots, the owning, operating, leasing and renting of heavy equipment, particularly used in the paving area.

OFFENSES CHARGED

Count XI

In 1958, Norwalk Asphalt Company built a plant at Bloomfield Avenue and Imperial Highway in Santa Fe Springs. In 1960, Copp Paving Company built a hot plant one-half mile northeast

of Norwalk's plant. From 1958 on, Industrial would underbid all competitors, even at a loss, putting economic pressure on plaintiff and Norwalk Asphalt Company. Industrial acquired Norwalk Asphalt in 1963 simultaneously with Industrial being acquired by Gulf.

On or about December 1, 1963, Gulf acquired Industrial Asphalt. Subsequent to said acquisition, Defendant Gulf, through its wholly owned subsidiary, Industrial, has attempted to monopolize and has monopolized the purchase, transportation and the sale of the asphaltic concrete and because of the vast amount of resources of defendant, Gulf, and the availability of the liquid asphalt to Industrial at unrealistic prices, defendant has engaged in a series of acts, practices and policies with the intent and purpose and with the object and effect of unlawfully interfering with plaintiff's business. By those acts, practices and policies, defendant has unlawfully intended to attempt to monopolize or to create and maintain a monopoly and has monopolized the purchase, transportation and sale in interstate commerce of asphaltic concrete and as a result of said intent, defendant has unlawfully and wrongfully injured and destroyed plaintiff's businesses, all of which is unlawful and against public policy and is in violation of Section 2 of the Act of Congress of July 2, 1890 (15 U.S.C.2), commonly known as the Sherman Act.

Count XIII

Further, the effect of the Stock Acquisition alleged above in XII may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act (38 Stat. 731 15 U.S.C. Section 18, as amended).

Count XIV

Defendant, Industrial, has also acquired at various times the several companies which also were in competition with plaintiffs

and defendant creating a violation of said Section 7 of the Clayton Act in that it substantially lessens competition or tends to create a monopoly in the following manner: Various entities that have been acquired have been eliminated as potential, substantial, independent, competitive entities in the asphaltic concrete business. Actual and potential competition between Industrial and the various companies acquired has been eliminated.

Industrial Asphalt's acquisition of various other "hot plants" in the form of horizontal acquisitions effectively eliminated all competition in the effective competitive areas.

Beginning at least as early as December 19, 1963, and continuing thereafter until the present time, the defendants named the co-conspirators engaged in an unlawful combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in the asphalt production and sales.

Count XV

On or about September, 1964, Union Oil Company acquired Sully Miller, Inc. Subsequent to said acquisition, defendant, Union, through its wholly owned subsidiary, Sully Miller has attempted to monopolize and has monopolized the purchase, transportation and sale of the asphaltic concrete and because of the vast amount of resources of defendant, Union, and the availability of the liquid asphalt to Sully Miller at unrealistic prices, defendant has engaged in a series of acts, practices and policies with the intent and purpose and with the object and effect of unlawfully interfering with plaintiff's business. By those acts, practices and policies, defendant has unlawfully intended to attempt to monopolize or to create and maintain a monopoly and has monopolized the purchase, transportation and sale in interstate commerce of asphaltic concrete and as a result of said intent, defendant has unlawfully and wrongfully injured and destroyed plaintiff's businesses, all of which is unlawful and

against public policy and is in violation of Section 2 of the Act of Congress of July 2, 1890 (15 U.S.C. 2), commonly known as the Sherman Act.

Count XVI

Defendants further leased and sold in such a manner to discriminate in price between different purchasers of commodities of like, grade and quality and the effect of such discrimination is to substantially lessen competition or tends to create a monopoly. In formulating and effectuating the aforesaid combination and conspiracy and price fixing, said defendants and co-conspirators did those things which as hereinbefore alleged, they combined and conspired to do, including among other things, the following:

Gulf Oil Company acquired Industrial Asphalt resulting in a vertical integration, which because of the vast financial resources of defendant, Gulf, and the availability of the raw materials at basically a give-away price. This acquisition eliminates competition to the detriment of plaintiff.

Union Oil Company's acquisitions of Sully Miller Contracting Company resulted in a vertical integration which substantially lessened competition to the detriment of plaintiff.

Sully Miller, Inc's horizontal acquisitions effectively eliminated competition in the competitive area.

Defendants and each of them conspired within to combine to monopolize or attempt to monopolize the trade and commerce defined above as follows:

The defendants and each of them among themselves effectively have divided the geographic areas of competition so that they would effectively not be competing against each other but rather to combine their resources to eliminate such competition.

Defendant Sully Miller, on or about May 12, 1969, and continuously have engaged in tie-in practices. By said tie-in arrangement, Sully Miller would agree to sell base rock material

and other material substantially cheaper if the particular contractor would buy the asphalt from Sully Miller.

Industrial Asphalt has further attempted to monopolize the area by over-extending credit to its potential customers, thereby locking in said potentiai customers to Industrial Asphalt.

Defendant, Industrial Asphalt and defendant, Sully Miller, and each of them maintain artificially high prices in those particular areas where there is no competition or slight competition and sell their products at an artificially low price, at times, substantially below cost, in those areas geographically where the aforesaid defendants compete with plaintiffs.

That certain combination and conspiracy further consisted of a continuing agreement and understanding between defendants and each of them to raise, fix, stabilize and maintain the prices of the product and because of such conspiracy, prices were raised, fixed, stabilized and maintained at non-competitive levels and the customers have been deprived of free and open competition.

Plaintiff has been substantially injured in a specific amount not yet ascertained since such determination will require discovery and analysis of defendants' books and records. When these amounts have been determined, plaintiffs will seek leave of court to amend this application and to include such amount.

PRAYER

Wherefore, plaintiffs pray that:

1. The alleged combination and conspiracy among the defendants herein named be adjudged and decreed to be in unreasonable restraint of trade in violation of Section 1 of the Sherman Act.

2. That defendant has unlawfully attempted to monopolize and has monopolized the purchase, transportation, leasing and sale of asphaltic concrete products in violation of Section 2 of the Sherman Act.

3. By selling at different prices, with the purpose and intent of driving the competition out of business or destroying competition, defendants have violated Section 2 of the Clayton Act of 1914, as amended, by the Robinson-Patman Act of 1936.

4. By inducing customers to enter into tie-in arrangements the effect of which is to substantially lessen competition, Section 3 of the Clayton Act has been violated.

5. That the defendant and all persons, firms and corporations acting on their behalf or under their direction or control, be permanently enjoined from engaging in carrying out or renewing any contracts, agreements, practices or understandings or claiming any prices thereunder having the purpose of effect of continuing, revising or renewing the aforesaid violations of the Sherman Act, the Clayton Act and the Robinson-Patman Act or any contracts, agreements, combination or conspiracy having like or similar purpose or effect. That the acquisition of defendant, Gulf Oil Company, of Industrial Asphalt and defendant, Union Oil Company's acquisition of Sully Miller Contracting Company and the various acquisitions of Sully Miller Contracting Company and Industrial Asphalt be adjudged to be in violation of Section 7 of the Clayton Act.

6. That the defendant, Union Oil Company, be required to divest itself of Sully Miller Contracting Company and Gulf Oil Company be required to divest itself of Industrial Asphalt, Inc.

7. Judgment be entered in favor of plaintiffs against the defendants jointly and severally for the injury and damages caused plaintiffs in an amount three-fold the actual damages they have sustained with interest thereon.

8. Plaintiffs recover their cost of litigation, including reasonable attorney's fees.

9. Plaintiffs be granted such other, further and different relief as the nature of the case may require and as may seem just and proper to the court.

CUMMINS, WHITE, BREIDENBACH & ALPHSON

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[Filed December 30, 1970]

United States District Court
Central District of California

CIVIL ACTION NO. 70-1394-DWW

Copp Paving Company, Inc.; Copp Equipment Company, Inc.; and Ernest A. Copp,
Plaintiffs,

v.

Gulf Oil Company; Union Oil Company of California, Industrial Asphalt, Inc.; Sully-Miller Contracting Company; and Edgington Oil Company,
Defendants.

AMENDED COMPLAINT UNDER THE ANTITRUST LAWS OF THE UNITED STATES AND UNDER THE CALIFORNIA CARTWRIGHT ACT FOR DAMAGES AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

The above-named plaintiffs file this Amended Complaint under Rule 15A of the Federal Rules of Civil Proecdure against the above-named defendants, and demanding trial by jury, complain and allege as follows:

FIRST CLAIM FOR RELIEF

I

JURISDICTION AND VENUE

1. This claim for relief is filed under Sections 4 and 16 of the Clayton Act (15 U.S.C. 4, 26) to recover damages from, and to obtain injunctive relief against, the defendants for violations of the Antitrust Laws of the United States, including 15 U.S.C., Sections 1, 2, 13, 13a, 14 and 18, as hereinafter alleged.

2. Each defendant transacts business, maintains an office, and is found within the Central District of California. The interstate trade and commerce hereinafter described is carried on, in part, within this District. Unlawful acts done pursuant to violations of Sections 1 and 2 of the Sherman Act have been performed within the Central District of California.

II

PLAINTIFFS

3. Plaintiff Copp Paving Company, Inc. (hereinafter sometimes referred to as "Copp Paving") is a California corporation, with its principal place of business in Artesia, California. Plaintiff Copp Equipment Company, Inc. (hereinafter someteimes referred to as "Copp Equipment") is a California corporation, with its principal place of business in Artesia, California. Plaintiff Ernest Copp is the owner of substantially all of the stock of Copp Paving and Copp Equipment. Plaintiffs are engaged principally in the business of manufacturing and selling of asphaltic concrete and the grading and paving of streets employing asphaltic concrete.

III

DEFENDANTS AND CO-CONSPIRATORS

4. Defendant Gulf Oil Company (hereinafter sometimes referred to as "Gulf") is a Delaware corporation with its principal

place of business in Los Angeles, California. Gulf produces and refines crude petroleum and markets petroleum products throughout the United States, including the Central District of California and in foreign countries. Gulf owns 100% of defendant Industrial Asphalt, Inc.

5. Defendant Industrial Asphalt, Inc. (hereinafter sometimes referred to as "Industrial") is a California corporation with its principal place of business in Van Nuys, California. Industrial is primarily engaged in the construction business and operates "Hot Plants" for the manufacture of asphaltic concrete at each "Hot Plant" location in Orange County, Los Angeles County, Ventura County, San Luis Obispo County, San Bernardino County, Riverside County, San Diego County, and West Los Angeles area. Gulf obtained control of Industrial by acquisition of 100% of Industrial's capital stock in 1963.

6. Defendant Union Oil Company of California (hereinafter sometimes referred to as "Union") is a California corporation with its principal place of business in Los Angeles, California. Union produces and refines crude petroleum and markets petroleum products throughout the United States, including the Central District of California, and in foreign countries. Union owns 100% of the capital stock of Sully Miller Contracting Company.

7. Defendant Sully Miller Contracting Company (hereinafter sometimes referred to as "Sully Miller") is a California corporation having its principal place of business in Long Beach, California. Sully Miller is engaged primarily in the business of operating asphaltic concrete "Hot Plants" and contracting street improvements. Union obtained control of defendant Sully Miller by acquiring 100% of its capital stock in 1964.

8. Defendant Edgington Oil Company (hereinafter sometimes referred to as "Edgington") is a California corporation, with its principal place of business in Long Beach, California.

Edgington produces and refines crude petroleum and markets petroleum products in California, including the Central District of California, in other states, and in foreign countries.

9. Various other firms, corporations and individuals presently unknown to plaintiffs participated as co-conspirators in the violations of law alleged herein and performed acts and made statements in furtherance thereof. Plaintiffs will seek leave of Court to amend this complaint to name such firms, corporations and individuals when their identities become known to plaintiffs.

IV

NATURE OF TRADE AND COMMERCE

10. Hot asphalt oil is one of the by-products obtained from the refining of domestic and imported crude petroleum. One of the substantial uses of hot asphalt oil is in connection with the construction, maintenance, surfacing, resurfacing and repairing of roads and highways.

Asphaltic concrete paving materials are made by combining hot, crushed rock, sand, a cement-like filler and hot asphalt oil into a homogeneous mass in a mixing plant, commonly called a "hot plant". The rock and sand are purchased from a rock plant. The hot asphalt oil is purchased from an oil company. Upon arrival of the rock and sand at the "hot plant", it is dumped into a stockpile bunker according to size and type of material. The stockpiles are at ground level and the material is dumped into a hopper which conveys the material overhead to the correct stockpile. This system is known as a "stacker". The filler is stored in a cement silo. The hot asphalt oil is delivered hot in insulated trucks and deposited into heated and insulated underground oil tanks in the plant. The various compounds are subsequently mixed at approximately 375° and the hot asphaltic concrete is discharged into a dump truck. The truck then delivers

the asphaltic concrete to the particular job. Hot asphalt oil customarily represents approximately 25% of the cost of all of the materials that are combined in the manufacture of asphaltic concrete.

Hot asphalt oil is also used to repair roads and highways in accordance with other techniques.

11. The total annual production and importation of hot asphalt oil into the United States ordinarily amounts to more than 6,000,000 tons, of which ninety percent (90%) is recovered from the refining of domestic and imported crude petroleum.

12. Over seventy-five percent (75%) of the total production of hot asphalt oil is used in the construction and maintenance of roads and highways. Approximately 14,000,000 square yards of asphalt pavement are constructed annually in the United States.

13. The total annual production of hot asphalt oil in California exceeds 1,000,000 tons per year, of which at least seventy-five percent (75%) is used in the construction and maintenance of roads and highways within the State.

14. Defendants Gulf, Union and Edgington operate refineries within the State of California in which substantial quantities of hot asphalt oil are manufactured from domestic and imported crude petroleum. Hot asphalt oil is shipped from these refineries within the State of California in interstate and foreign commerce to other states of the United States and to interstate and foreign customers. Plaintiffs and defendants Industrial and Sully Miller purchase hot asphalt oil produced from imported and domestic crude petroleum and manufacture asphaltic concrete, sometimes referred to as "asphalt", therefrom as hereinabove set forth.

Defendants Gulf, Union and Edgington sell to end users and contractors, including plaintiffs, substantial quantities of hot asphalt oil to be used as hot asphalt or as asphaltic concrete for constructing, maintaining, surfacing, resurfacing and repairing roads and highways, including Federal interstate system highways

and highways directly connected to interstate highways. Thus, the business of supplying hot asphalt oil or asphaltic concrete for road purposes is in and directly affects interstate commerce.

15. Plaintiffs purchase hot asphalt oil and manufacture asphaltic concrete therefrom at their hot plant in Santa Fe Springs, California. Plaintiffs thereafter either sell asphaltic concrete to third parties or use that asphaltic concrete in carrying on their business in the installation, maintenance and repair of roads and highways. Plaintiffs are in direct competition with defendants Industrial and Sully Miller in the sale of asphaltic concrete and the installation, maintenance and repair of roads and highways.

16. The movement in interstate commerce of hot asphalt oil manufactured from domestic and imported crude petroleum used in the business of supplying hot asphalt oil or asphaltic concrete for interstate and local highways and roads is in and directly affects interstate commerce.

V

OFFENSES CHARGED

17. Beginning at a date unknown to plaintiffs and continuing at least to the date of the filing of this complaint, defendants, and each of them, together with the co-conspirators, have engaged in a continuous agreement, combination, conspiracy and concert of action in the State of California, including the County of Los Angeles, and in other western states of the United States, in unreasonable restraint of interstate commerce and trade, in the sale of hot asphalt oil, asphaltic concrete, and in the business of grading and paving of roads and highways and the defendants, and each of them, have purposely and with deliberate and specific intent, attempted to monopolize, conspired with each other and the co-conspirators, to monopolize and did monopolize, the aforesaid trade and commerce, all in violation of Sections 1 and 2 of the Sherman Act.

18. One of the purposes and objectives of the aforesaid combination and conspiracy to restrain and the combination and conspiracy to monopolize, attempt to monopolize and monopolization has been the destruction and elimination of plaintiffs as a viable entity so that:

(a) Plaintiffs would be eliminated as a competitor of Industrial and Sully Miller:

(b) Plaintiffs would be penalized for remaining as an independent competitor in the manufacture and sale of asphaltic concrete, and in the business of grading and paving highways and roads.

19. In furtherance of the above-described violations of the Antitrust Laws, the defendants, and each of them, together with the co-conspirators, agreed to and in fact engaged, among other things, in the following acts and practices:

(a) Fixed, stabilized and maintained the prices at which hot asphalt oil would be sold to end users, including governmental agencies and to hot plant owners, including plaintiffs;

(b) Allocated and exchanged between each other supplies of crude petroleum and petroleum products, including, but not limited to supplies of hot asphalt;

(c) Fixed, stabilized and maintained the prices at which asphaltic concrete would be sold to end users, including governmental agencies, and to contractors;

(d) Eliminated competition and obtained and exercised monopoly power in the operation of hot plants and in the sale of asphaltic concrete by acquiring ownership and control of a substantial number of hot plants, including more than sixty percent (60%) of all of the hot oil plants operated in Southern California and in Los Angeles and Orange Counties;

(e) Allocated and divided, on a geographical basis and upon a customer basis, the outlets to whom hot asphalt oil and asphaltic concrete would be sold;

(f) Sold asphaltic concrete at unreasonably low prices in the areas in which they competed with plaintiffs and subsidized said unreasonably low prices by artificially maintaining prices in other areas in which plaintiffs did not compete;

(g) Sold and installed asphaltic concrete at or below cost in areas where plaintiffs competed with defendants and subsidized said sales by artificially maintaining higher prices in areas where plaintiffs did not compete;

(h) Threatened actual and potential customers of plaintiffs that unless they refrained from purchasing asphaltic concrete from plaintiffs in plaintiffs' area of competition, that said customers would be unable to obtain supplies of asphaltic concrete at a competitive price in other areas where said customers had no other source of supply other than defendants;

(i) Extended unreasonably advantageous credit terms to customers in order to preclude said customers from purchasing asphaltic concrete from any other suppliers, including plaintiffs;

(j) Required customers who were indebted to defendants to purchase all of their asphaltic concrete from said defendants upon threat of immediately enforcing the collection of outstanding debt, thereby precluding said customers from purchasing asphaltic concrete from other suppliers, including plaintiffs;

(k) Tied the sale of other commodities, including base rock material, and tied the availability of credit to the sale of asphaltic concrete so as to induce and require purchasers of asphaltic concrete to purchase their supply thereof from Sully Miller and not to purchase their supply from third parties, including plaintiffs;

(l) Sold hot asphalt oil and asphaltic concrete in such a manner as to discriminate in price between purchasers of such commodities of like grade and quality where the effect of such discrimination was to substantially lessen competition and tended to create a monopoly;

(m) Gulf acquired all of the capital stock of Industrial, as hereinabove alleged, and the effect thereof may be substantially to lessen competition and to tend to create a monopoly, in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended; and

(n) Union acquired all of the capital stock of Sully Miller, as hereinabove alleged, and the effect of that acquisition may be substantially to lessen competition, and to tend to create a monopoly, in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended.

VI

INJURY TO PLAINTIFFS

20. By reason of the aforesaid antitrust violations, plaintiffs have suffered grave damage in loss of profits, goodwill and the value of their company as a going concern. The exact amount of damage has not yet been fully ascertained, but when fully determined, plaintiffs will seek leave to assert the amount of damages herein.

SECOND CLAIM FOR RELIEF

VII

JURISDICTION AND VENUE

21. This claim for relief arises under California Business and Professions Code 16750 to recover damages from, and to obtain injunctive relief against, the defendants for violations of the California Business and Professions Code Section 16720 (sometimes referred to as the "Cartwright Act"). This claim is substantially and directly related to plaintiffs' First Claim for Relief, and by reason thereof, this Court has pendant jurisdiction of this claim.

22. Plaintiffs hereby incorporate by reference Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14 (the first sentence only), and 15 of Plaintiffs' First Claim for Relief as though fully set forth at length herein.

VIII

OFFENSES CHARGED

23. Beginning at a date unknown to plaintiffs and continuing at least to the date of the filing of this complaint, defendants, and each of them, together with the co-conspirators, have engaged in a combination of capital and acts in the State of California, including Los Angeles County, in order to carry out the following purposes, among others:

(a) To create and carry out restrictions in trade and commerce; and

(b) To prevent and eliminate competition in the sale of hot asphalt oil and asphaltic concrete, in violation of California Business and Professions Code Section 16720 (also known as the Cartwright Act).

24. Plaintiffs hereby incorporate by reference Paragraphs 18(a) and (b) and 19(a) through (m) of Plaintiffs' First Claim for Relief as though fully set forth at length herein.

IX

INJURY TO PLAINTIFFS

25. By reason of the aforesaid violations of the Cartwright Act, plaintiffs have suffered grave damage in loss of profits, good will, and the value of their Company as a going concern. The exact amount of damage has not yet been fully ascertained. When fully determined, plaintiffs will seek to assert the amount of damages herein.

PRAYER

Wherefore, plaintiffs pray that:

(1) The alleged combination and conspiracy among the defendants herein named be adjudged and decreed as a violation of Section 1 of the Sherman Act;

(2) That the attempts to monopolize, conspiracy to monopolize and monopolization hereinabove alleged be declared to be a violation of Section 2 of the Sherman Act;

(3) That the sales at discriminatory prices hereinabove alleged be declared to be in violation of Section 2 of the Clayton Act of 1914 as amended by the Robinson-Patman Act of 1936;

(4) That the tie-in arrangements hereinabove alleged be declared to be in violation of Section 3 of the Clayton Act;

(5) That the acquisition by defendant Gulf of the capital stock of Industrial, and the acquisition by defendant Union of the capital stock of defendant Sully Miller, and the various acquisitions of hot plants, by Industrial and Sully Miller, be adjudged to be in violation of Section 7 of the Clayton Act;

(6) That defendant Union be required to divest itself of the capital stock of Sully Miller and that defendant Gulf be required to divest itself of the capital stock of Industrial;

(7) That the combination and conspiracy hereinabove alleged be declared to be in violation Section 16720 of the California Business and Professions Code and the Cartwright Act;

(8) That defendants, and all persons, firms and corporations acting on their behalf or under their direction or control, be permanently enjoined from engaging in carrying out or renewing any contracts, agreements, practices or understandings hereinabove alleged;

(9) That judgment be entered in favor of plaintiffs and against the defendants, jointly and severally, for the injury and damages caused plaintiffs in an amount equal to threefold the actual damages sustained by plaintiffs;

(10) That plaintiffs recover their costs of litigation, including reasonable attorneys' fees; and

(11) That plaintiffs be accorded such other, further and different relief as the nature of the case may require and as may seem just and proper to the Court.

CORINBLIT AND SHAPERO

By: MARTIN M. SHAPERO
Attorneys for Plaintiffs

PLAINTIFFS DEMAND A JURY TRIAL

United States District Court for the Central District of California

[Title of case omitted in printing]

[Filed February 26, 1971]

ANSWER OF DEFENDANT UNION OIL COMPANY OF CALIFORNIA TO AMENDED COMPLAINT

Union Oil Company of California, hereafter "Union," answers plaintiffs' amended complaint as follows:

ANSWER TO FIRST CLAIM FOR RELIEF

1. Union denies the averments of Paragraph 1 of the amended complaint, except that it admits that plaintiffs' first claim for relief purports to be filed under the provisions of 15 U.S.C. § 26.

2. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 2 of the amended complaint, except that it admits that Union, Sully-Miller Contracting Company, Industrial Asphalt, Inc., and Edgington Oil Company each maintains an office, transacts business or is found in the Central District of California, and denies that Union has done or performed any acts in violation of or pursuant to any violations of Sections 1 and 2 of the Sherman Act in the Central District of California or in any other place.

3. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 3, 4, and 5 of the amended complaint except that it admits that Industrial Asphalt, Inc. operates "hot plants" for the manufacture of asphaltic concrete.

4. Union admits the averments of Paragraph 6 of the amended complaint, except that it denies that it produces and refines crude petroleum and markets petroleum products throughout the United States, and denies that it refines crude petroleum and markets petroleum products in foreign countries.

5. Union admits the averments of Paragraph 7 of the amended complaint, except that it denies that it obtained control of Sully-Miller Contracting Company in 1964 or at any other time.

6. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 8 of the amended complaint, except that it admits that Edgington Oil Company is a California corporation with its principal place of business in Long Beach, California, and that Edgington Oil Company refines crude petroleum and markets petroleum products in California.

7. Union denies the averments of Paragraph 9 of the amended complaint.

8. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 10 of the amended complaint, except that it admits that various products, sometimes referred to collectively as "hot asphalt oil" are obtained from the refining of crude petroleum, in some cases domestic and in other cases foreign, that "hot asphalt oil" is used in connection with the construction, maintenance, surfacing, resurfacing, and repairing of roads and highways, and that asphaltic concrete paving materials are made by combining "hot asphalt oil" with various other materials and by various methods in a mixing plant, sometimes called a "hot plant."

9. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 11, 12, and 13 of the amended complaint, except that it admits that the total annual production and importation of "hot asphalt oil" into the United States ordinarily amounts to more than six million tons, that approximately 14 million or more square yards of asphalt pavement are ordinarily constructed annually in the United States, and that the total annual production of "hot asphalt oil" in California ordinarily exceeds one million tons per year.

10. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 14 of the amended complaint, except that it admits that it operates refineries within the State of California at which "hot asphalt oil" is manufactured from crude petroleum, in some cases domestic and in other cases foreign, that Edington operates a refinery in the State of California at which "hot asphalt oil" is manufactured from crude petroleum, that Union ships some of the "hot asphalt oil" so manufactured by it to other states of the United States and sells "hot asphalt oil" to customers located in other states, that Industrial and Sully-Miller purchase "hot asphalt oil" produced from crude petroleum, in some cases domestic and in other cases foreign, and manufacture asphaltic concrete therefrom, that Union and Edington sell "hot asphalt oil" to end users and contractors, and that such "hot asphalt oil" is in some cases used as "hot asphalt" and is in other cases used as one of the constituents of asphaltic concrete for constructing, maintaining, surfacing, resurfacing, and repairing of roads and highways, including federal interstate system highways and highways directly connected to interstate highways, and denies that it sells, or during at least the four years last past has sold "hot asphalt oil" to plaintiffs or to any of them, and denies that the business of supplying "hot asphalt oil" or asphaltic concrete for road purposes is in and directly affects interstate commerce.

11. Union is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 15 of the amended complaint.

12. Union denies the averments of Paragraphs 16, 17, 18, 19, and 20 of the amended complaint, except that it admits that the exact amount by which plaintiffs have allegedly been damaged has not been ascertained or determined, and alleges that said supposed amount cannot be ascertained or determined because plaintiffs have not been injured at all.

SECOND DEFENSE TO FIRST CLAIM FOR RELIEF

13. Plaintiffs' first claim for relief fails to state a cause of action against Union upon which relief may be granted.

THIRD DEFENSE TO FIRST CLAIM FOR RELIEF

14. Such of plaintiffs' claims for relief against Union as accrued more than four years prior to the filing of the complaint are barred by the statute of limitations, the Act of July 7, 1955, C. 283, § 1, 69 Stat. 283, 15 U.S.C. § 156.

FOURTH DEFENSE TO FIRST CLAIM FOR RELIEF

15. Any differentials in the prices at which Union sold "hot asphalt oil" of like grade and quality to persons of the same class of trade made only due allowance for differences in the cost of manufacture, sale, furnishing or delivery resulting from the different methods or quantities in which the "hot asphalt oil" was sold, delivered or furnished to purchasers.

FIFTH DEFENSE TO FIRST CLAIM FOR RELIEF

16. Any changes in the prices at which Union sold "hot asphalt oil" of like grade and quality to persons of the same class of trade were in response to changing conditions affecting the market for or the marketability of the "hot asphalt oil" concerned.

SIXTH DEFENSE TO FIRST CLAIM FOR RELIEF

17. Any differentials in the prices at which Union sold "hot asphalt oil" of like grade and quality to persons of the same class of trade were made in good faith to meet the equally low price of a competitor or competitors of Union or the services or facilities furnished by a competitor or competitors of Union.

ANSWER TO SECOND CLAIM FOR RELIEF

18. Union denies the averments of Paragraph 21 of the amended complaint, except that it admits that plaintiffs' second claim for relief purports to arise under Section 16750 of the California Business and Professions Code.

19. Answering Paragraph 22 of the amended complaint, Union incorporates by this reference Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Answer to First Claim for Relief as though the same were fully set forth at length herein.

20. Union denies the averments of Paragraph 23, 24, and 25 of the amended complaint, except that it admits that the exact amount by which plaintiffs have allegedly been damaged has not been ascertained or determined, and alleges that said supposed amount cannot be ascertained or determined because plaintiffs have not been injured at all.

SECOND DEFENSE TO SECOND CLAIM FOR RELIEF

21. Plaintiffs' second claim for relief fails to state a cause of action against Union upon which relief may be granted.

THIRD DEFENSE TO SECOND CLAIM FOR RELIEF

22. Such of plaintiffs' claims for relief against Union as accrued more than four years prior to the filing of the complaint are barred by the statute of limitations, Stats. 1963 c. 792, California Business and Professions Code. § 16750.1.

FOURTH DEFENSE TO SECOND CLAIM FOR RELIEF

23. This Court has no jurisdiction over the subject matter of the claims purportedly asserted in plaintiffs' second claim for relief.

Wherefore, defendant Union Oil Company of California prays that the amended complaint be dismissed and that it have and recover its costs.

Dated: February 25, 1971.

DOUGLAS C. GREGG
E. A. MCFADDEN
MOSES LASKY
RICHARD HAAS
GEORGE A. CUMMING, JR.
BROBECK, PHLEGER & HARRISON

By /s/ RICHARD HAAS
Richard Haas

Attorneys for Defendant
Union Oil Company of California

[Certificate of Service omitted in printing]

United States District Court for the Central District of California

[Title of case omitted in printing]

[Filed February 26, 1971]

ANSWER OF DEFENDANT SULLY-MILLER CONTRACTING COMPANY TO AMENDED COMPLAINT

Sully-Miller Contracting Company, hereafter "Sully-Miller," answers plaintiffs' amended complaint as follows:

ANSWER TO FIRST CLAIM FOR RELIEF

1. Sully-Miller denies the averments of Paragraph 1 of the amended complaint, except that it admits that plaintiffs' first claim for relief purports to be filed under the provisions of 15 U.S.C. § 26.

2. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 2 of the amended complaint, except that it admits that Union Oil Company of California, Sully-Miller Contracting Company, Industrial Asphalt, Inc., and Edgington Oil Company each maintains an office, transacts business or is found in the Central District of California, and denies that it has done or performed any acts in violation of or pursuant to any violations of Sections 1 and 2 of the Sherman Act in the Central District of California or in any other place.

3. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 3, 4, and 5 of the amended complaint, except that it admits that Copp Paving Company, Inc. has its principal place of business in Artesia, California, and is engaged in the business of manufacturing and selling asphaltic concrete and in the business of grading

and paving streets with asphaltic concrete, and that Industrial Asphalt, Inc. operates "hot plants" in various places for the manufacture of asphaltic concrete.

4. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 6 of the amended complaint, except that it admits that Union Oil Company of California is a California corporation with its principal place of business in Los Angeles, California, that Union produces and refines crude petroleum and markets petroleum products in, among other places, the Central District of California.

5. Sully-Miller admits the averments of Paragraph 7 of the amended complaint, except that it denies that Union obtained control of Sully-Miller in 1964 or at any other time.

6. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 8 of the amended complaint, except that it admits that Edgington Oil Company has its principal place of business in Long Beach, California, and that Edgington Oil Company refines crude petroleum and markets petroleum products in California.

7. Sully-Miller denies the averments of Paragraph 9 of the amended complaint.

8. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 10 of the amended complaint, except that it admits that various products, sometimes referred to collectively as "hot asphalt oil," are obtained from the refining of crude petroleum, in some cases domestic and in other cases foreign, that "hot asphalt oil" is used in connection with the construction, maintenance, surfacing, resurfacing and repairing of roads and highways, and that asphaltic concrete paving materials are made by combining "hot asphalt oil" with various other materials and by various methods in a mixing plant, sometimes called a "hot plant."

9. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 11, 12, and 13 of the amended complaint, except that it admits that approximately 14 million or more square yards of asphalt pavement are ordinarily constructed annually in the United States.

10. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 14 of the amended complaint, except that it admits that Union and Edgington operate refineries in the State of California at which "hot asphalt oil" is manufactured, that Copp Paving Company, Inc., Industrial, and Sully-Miller purchase "hot asphalt oil" and manufacture asphaltic concrete therefrom, that Union and Edgington sell "hot asphalt oil" to end users and contractors, and that such "hot asphalt oil" in some cases is used as "hot asphalt," and in other cases is used as one of the constituents of asphaltic concrete for constructing, maintaining, surfacing, resurfacing, and repairing roads and highways, including Federal interstate system highways and highways directly connected to interstate highways, and denies that the business of supplying "hot asphalt oil" or asphaltic concrete is in and directly affects interstate commerce.

11. Sully-Miller is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 15 of the amended complaint, except that it admits that Copp Paving Company, Inc. purchases "hot asphalt oil" and manufactures asphaltic concrete therefrom at a "hot plant" located in Santa Fe Springs, California, that Copp Paving Company, Inc. sells asphaltic concrete to third parties or uses asphaltic concrete in the business of installing, maintaining and repairing of roads and highways, and that in some instances Copp Paving Company, Inc. competes with Industrial and Sully-Miller in the business of selling asphaltic concrete and in the business of installing, maintaining and repairing roads and highways.

12. Sully-Miller denies the averments of Paragraphs 16, 17, 18, 19, and 20 of the amended complaint, except that it admits that the exact amount by which plaintiffs have allegedly been damaged has not been ascertained or determined, and alleges that said supposed amount cannot be ascertained or determined because plaintiffs have not been injured at all.

SECOND DEFENSE TO FIRST CLAIM FOR RELIEF

13. Plaintiffs' first claim for relief fails to state a cause of action against Sully-Miller upon which relief may be granted.

THIRD DEFENSE TO FIRST CLAIM FOR RELIEF

14. Such of plaintiffs' claims for relief against Sully-Miller as accrued more than four years prior to the filing of the complaint are barred by the statute of limitations, the Act of July 7, 1955, C. 283, §1, 69 Stat. 283, 15 U.S.C. §156.

FOURTH DEFENSE TO FIRST CLAIM FOR RELIEF

15. Any differentials in the prices at which Sully-Miller sold asphaltic concrete of like grade and quality to persons of the same class of trade made only due allowances for differences in the cost of manufacture, sale, furnishing, or delivery resulting from the different methods or quantities in which the asphaltic concrete was sold, delivered or furnished to purchasers.

FIFTH DEFENSE TO FIRST CLAIM FOR RELIEF

16. Any changes in the prices at which Sully-Miller sold asphaltic concrete of like grade and quality to persons of the same class of trade were in response to changing conditions affecting the market for or marketability of the asphaltic concrete concerned.

SIXTH DEFENSE TO FIRST CLAIM FOR RELIEF

17. Any differentials in the prices at which Sully-Miller sold asphaltic concrete of like grade and quality to persons of the same class of trade were made in good faith to meet the equally low price of a competitor or competitors of Sully-Miller or the services or facilities furnished by a competitor or competitors of Sully-Miller.

ANSWER TO SECOND CLAIM FOR RELIEF

18. Sully-Miller denies the averments of Paragraph 21 of the amended complaint, except that it admits that plaintiffs' second claim purports to arise under Section 16750 of the California Business and Professions Code.

19. Answering Paragraph 22 of the amended complaint, Sully-Miller incorporates by this reference Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Answer to First Claim for Relief as though the same were fully set forth at length herein.

20. Sully-Miller denies the averments of Paragraphs 23, 24, and 25 of the amended complaint, except that it admits that the exact amount by which plaintiffs have allegedly been damaged has not been ascertained or determined, and alleges that said supposed amount cannot be ascertained or determined because plaintiffs have not been injured at all.

SECOND DEFENSE TO SECOND CLAIM FOR RELIEF

21. Plaintiffs' second claim for relief fails to state a cause of action against Sully-Miller upon which relief may be granted.

THIRD DEFENSE TO SECOND CLAIM FOR RELIEF

22. Such of plaintiffs' claims for relief against Sully-Miller as accrued more than four years prior to the filing of the complaint are barred by the statute of limitations, Stats. 1963 c. 792, California Business and Professions Code §16750.1.

FOURTH DEFENSE TO SECOND CLAIM FOR RELIEF

23. This Court has no jurisdiction over the subject matter of the claims purportedly asserted in plaintiffs' second claim for relief.

WHEREFORE, defendant Sully-Miller Contracting Company prays that the amended complaint be dismissed and that it have and recover its costs.

Dated: February 25, 1971.

DOUGLAS C. GREGG
E. A. MCFADDEN

MOSES LASKY
RICHARD HAAS
GEORGE A. CUMMING, JR.
BROBECK, PHLEGER & HARRISON

By /s/ RICHARD HAAS
Richard Haas

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[Certificate of Service omitted in printing]

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[Filed April 23, 1971]

United States District Court
Northern District of California

In re Consolidated Pretrial Proceedings in Western Liquid Asphalt Cases	Master File No. 50173-RES

This document relates to:

Copp Paving Company, Inc.; Copp Equipment Company, Inc.; and Ernest A. Copp *Plaintiffs,* v. Gulf Oil Company; Union Oil Company of California; Industrial Asphalt, Inc.; Sully-Miller Contracting Company; and Edgington Oil Company, *Defendants.*	Civil Action No. 70-1394-RES

AMENDED ANSWER OF DEFENDANTS GULF OIL CORPORATION AND INDUSTRIAL ASPHALT, INC.

Defendants GULF OIL CORPORATION ("Gulf"), erroneously named herein as "Gulf Oil Company", and INDUSTRIAL ASPHALT, INC. ("Industrial") answer plaintiffs' Amended Complaint, as follows:

FIRST DEFENSE

1. Admit that the First Claim For Relief in the Amended Complaint purports to be filed under the statutes referred to in Paragraph 1; deny each and every allegation of Paragraph 1 not herein expressly admitted.

2. Admit that answering defendants, Union Oil Company of California, Sully-Miller Contracting Company and Edgington Oil Company, transact business, maintain offices, and are found within the Central District of California; deny all of the allegations of Paragraph 2 not herein admitted insofar as they relate to these answering defendants and state they are without knowledge or information sufficient to form a belief as to the truth of the allegations insofar as they relate to any other defendants.

3. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3.

4. Admit the allegations of Paragraph 4, except allege that defendant Gulf Oil Corporation was incorporated under the laws of the State of Pennsylvania and has a place of business in Los Angeles, California.

5. Admit the allegations of Paragraph 5, except allege that defendant Industrial Asphalt, Inc. was incorporated under the laws of the State of Delaware, and that it is engaged primarily in the business of manufacturing and selling asphaltic concrete at "Hot Plants" which it operates and which are located in Orange County, Los Angeles County, Ventura County, San Luis Obispo County, San Bernardino County, Riverside County and San Diego County; further admit that Gulf Oil Corporation acquired all of the capital stock of Industrial Asphalt, Inc. in 1963; deny each and every allegation of Paragraph 5 not herein expressly admitted.

6. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6.

7. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7.

8. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8.

9. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 insofar as they relate to other corporations, firms and individuals not named as defendants in plaintiffs' Amended Complaint, or defendants other than these answering defendants; deny that answering defendants participated as co-conspirators in the violations of law alleged in the Amended Complaint.

10. Admit the allegations of Paragraph 10 except the allegations of the sentence of Paragraph 10 appearing at lines 25 to 27, inclusive, Page 4, and state they are without knowledge or information sufficient to form a belief as to the truth of the allegations of the sentence of Paragraph 10 appearing at lines 25 to 27, inclusive, Page 4.

11. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11.

12. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12.

13. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13.

14. Admit that Gulf Oil Corporation owns and operates a petroleum refinery within the State of California at which "hot asphalt oil" is manufactured from domestic and imported crude petroleum; further admit that Industrial Asphalt, Inc. purchases

"hot asphalt oil" produced from imported and domestic crude petroleum which it uses in the manufacture of asphaltic concrete; allege that all of the "hot asphaltic oil" so manufactured by Gulf Oil Corporation is sold to Industrial Asphalt, Inc.; said sale being made within the State of California; deny the allegations of Paragraph 14 not herein admitted insofar as they relate to these answering defendants and state they are without knowledge or information sufficient to form a belief as to the truth of the allegations as to any other defendants.

15. State that they are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15.

16. Deny the allegations of Paragraph 16.

17. Deny the allegations of Paragraph 17.

18. Deny the allegations of Paragraph 18.

19. Admit that Gulf Oil Corporation acquired all of the capital stock of Industrial Asphalt, Inc.; deny the allegations of Paragraph 19 not herein admitted insofar as they relate to these answering defendants and state they are without knowledge or information sufficient to form a belief as to the truth of the allegations as to any other defendants.

20. Deny the allegations of Paragraph 20 and further deny that plaintiffs have been injured or damaged financially or otherwise or at all as a result of any act or omission of these answering defendants.

SECOND DEFENSE

21. Admit that the Second Claim For Relief in the Amended Complaint purports to be filed under the statutes referred to in Paragraph 21; deny each and every allegation of Paragraph 21 not herein expressly admitted.

22. Answering Paragraph 22 these answering defendants hereby incorporate by reference Paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14 and 15 of this Answer as though fully set forth at length herein.

23. Deny the allegations of Paragraph 23.

24. Answering Paragraph 24 these answering defendants hereby incorporate by reference Paragraphs 18 and 19 of this Answer as though fully set forth at length herein.

25. Deny the allegations of Paragraph 25 and further deny that plaintiffs have been injured or damaged financially or otherwise or at all as a result of any act or omission of these answering defendants.

THIRD DEFENSE

The First Claim For Relief in the Amended Complaint fails to state a claim against these answering defendants upon which relief can be granted.

FOURTH DEFENSE

The Second Claim For Relief in the Amended Complaint fails to state a claim against these answering defendants upon which relief can be granted.

FIFTH DEFENSE

Plaintiffs' alleged claims for relief are barred in whole or in part by applicable federal and state statute of limitations.

SIXTH DEFENSE

None of the sales mentioned in the First Claim For Relief in the Amended Complaint were made in interstate commerce, nor did they substantially affect interstate commerce.

SEVENTH DEFENSE

If there have been any sales of "hot asphalt oil" and asphaltic concrete by these answering defendants in such a manner as to

discriminate in price, as alleged in the Amended Complaint, such discriminations or differentials were such as to make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities were sold or delivered to purchasers.

EIGHTH DEFENSE

If there have been any sales of "hot asphalt oil" and asphaltic concrete by these answering defendants in such a manner as to discriminate in price, as alleged in the Amended Complaint, such discriminations or changes in price were in response to changing conditions affecting the market or the marketability of the commodities concerned.

NINTH DEFENSE

If there have been any sales of "hot asphalt oil" and asphaltic concrete by these answering defendants in such a manner as to discriminate in price, as alleged in the Amended Complaint, such discriminations or differentials were made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

Wherefore, defendants pray that plaintiffs take nothing by their Amended Complaint, for their costs and expenses of suit

herein, and for such other and further relief as the Court may deem proper.

Dated: March 23, 1971.

R. W. CURTIS
R. W. FULLER
F. E. LAYMON
D. R. ARNETT

By /s/ FRED E. LAYMON
F. E. Laymon

Attorneys for Defendants Gulf Oil Corporation and Industrial Asphalt, Inc.

[Certificate of Service omitted in printing]

United States District Court for
The Northern District of California
[Title of case omitted in printing]
[Filed October 29, 1971]

AFFIDAVIT OF ERNEST A. COPP

State of California
County of Los Angeles—ss.

Ernest A. Copp, being first duly sworn, states:

1. The affiant is now and was at all times referred to herein the President and the controlling manager of Copp Paving Company, Inc., and Copp Equipment Company, Inc., and has spent the last 17 years of his life actively engaged in the paving and contracting business in the Los Angeles Basin.

2. This affidavit is directed to the affidavits of R. F. Molyneux and W. Duane Rash which have been submitted by the defendant and which in the opinion of the affiant contain material misstatement of facts as follows:

A. Referring to Paragraph 7 of the affidavit submitted by R. F. Molyneux wherein it states "in recent years, more than 10 firms have operated more than 45 hot plants in that portion of Los Angeles Basin served by Sully-Miller's hot plants." As further set forth in the affidavit of R. F. Molyneux at Paragraph 9 "the effective area of operation of most hot plants in the Los Angeles Basin is 5 to 15 miles from the plant. The result is that the firms engaged in the production and sale of asphaltic concrete vary from one town to the next, depending upon the location of their hot plant and the pit from which it is supplied with aggregate, and each hot plant in the Los Angeles Basin is thus little more than a neighborhood outlet for asphaltic concrete."

B. This affiant, Ernest A. Copp, states in the south portion of Los Angeles County during the recent years referred to by affiant Molyneux there were formerly 6 contractor-producers that owned and operated one to three hot plants. Of the total of these 6 in this southern area, three of said companies were acquired by Sully-Miller and Sully-Miller in turn was acquired by defendant Union Oil. Of the remaining companies in the southern area of the one to three hot plant category, two were acquired by the defendant Industrial Asphalt, which in turn is owned by the defendant Gulf Oil. This leaves the plaintiff Copp as the only independent producing contractor in the southern area owning one to three plants.

3. Referring to the Rash affidavit, Paragraph 3 thereof, wherein it states that Sully-Miller has operated a total of eleven hot plants during all or a portion of the period referred to in plaintiff's interrogatories, this affiant states as follows: Within the southern Los Angeles basin, there are approximately thirty hot plants. It is possible to enlarge the area of definition to include some forty-five hot plants, but this affiant believes it is more realistic to define the area as confined to the south Los Angeles basin, which involves the thirty hot plants. Of the thirty hot plants in the area, Sully-Miller owns twelve hot plants and Industrial Asphalt owns eleven, which mathematically computes out as follows: That defendant Sully-Miller and Industrial Asphalt together own directly 76% of the hot plants within the south Los Angeles basin.

4. As alleged in the Copp amended complaint, the defendant Industrial Asphalt is owned by the defendant Gulf Oil Company. Within the course of the last ten years, the defendant Industrial Asphalt acquired the following companies. This list is set forth by way of illustration and is not intended to be a complete list of all paving companies acquired by Industrial Asphalt:

(a) Oswald Brothers—El Segundo
(b) A-1 Paving—Monrovia

(c) Hall Company—Monrovia
(d) Arrow—El Monte
(e) Ken Golden—San Diego
(f) Norwalk Asphalt—Santa Fe Springs
(g) C. O. Sparks—Los Angeles
(h) G. G. Fisher—South Gate
(i) Newhall Paving—Newhall
(j) Schroeder & Co.—Sun Valley
(k) Goode and Schroeder—Sun Valley
(l) Southwest Paving—Sun Valley
(m) Corona Plant—Corona
(n) John J. Swigart—Orange

5. The defendant Sully-Miller is owned and controlled by the defendant Union Oil Company. The defendant Sully-Miller has acquired the following paving companies within the last ten years:

(a) Ken Jones—Redondo Beach
(b) Warren Southwest—various locations
(c) Ansco—Long Beach
(d) S. P. Milling—Ventura

6. The companies remaining unacquired by Industrial Asphalt and Sully-Miller are:

(a) Vernon Paving
(b) Griffith Paving
(c) Associated Asphalt
(d) Hooker and Company
(e) Copp Paving Company
(f) R.J. Noble
(g) All American Asphalt

7. In addition to the foregoing there is the South Coast Asphalt Company which the affiant is informed and believes,

and based upon said information and belief alleges, is owned fifty percent by Sully-Miller or Union Oil and is controlled in terms of policy by Sully-Miller.

8. Of the total asphalt sold within the Los Angeles basin, it is estimated by this affiant that Industrial Asphalt accounts for fifty percent of the total sales and Sully-Miller accounts for thirty-three percent and the balance of seventeen percent is represented by the few independent contractors left within the area.

9. With reference to the question of trade secrets and procedures, the affiant states that he is well-acquainted with the production procedures and your affiant can state that there are no secret procedures. The equipment which is used on the jobs has progressively become larger and more efficient but the basic technique of paving has remained unchanged for many years. Trade secrets within the area are impossible for the following reasons:

(a) All contractors use the same union labor;

(b) The personnel used by the different companies drift back and forth between one company and another, depending upon the general movement of employment as well as fluctuation in demand between one company and another.

(c) All paving companies purchase utilities from the same utility companies;

(d) All paving contractors purchase the same brands and type of equipment for paving.

(e) All installations made are to specifications prescribed by the owner or the contracting governmental agency.

(f) The formula, including amounts and grade of material to be used in the installations, are common to all and designated by code or contract.

10. Because of the nature of the paving industry and the fact that there are no special techniques which are secret to one company over another, this affiant asserts that an examination of the

cost records of the defendants, Sully-Miller and Industrial Asphalt, will have no effect on the ability of said defendants to compete or place them in a disadvantageous position for future jobs. The sole and single reason for requesting this information from the defendants is to determine whether said defendants were actually pricing jobs in the area of competition with the plaintiff at a figure below their own costs of operation for the singular and designed purpose of preventing Copp from operating within his natural area of business and ultimately eliminating Copp as a competitor, while maintaining high prices beyond the point where the plaintiff Copp was competing, which areas would be defined beyond the limits set forth in the affidavit of affiant W. Duane Rash.

Dated: October 27, 1971.

/s/ ERNEST A. COPP
Ernest A. Copp

[Jurat and Certificate of Service Omitted in printing]

United States District Court
Northern District of California

[Filed December 31, 1971]

In Re Coordinated Pretrial Proceedings In Western Liquid Asphalt Cases	Master File No. 50173-RES
This Document Relates To: Copp Paving Company, Inc., et al., *Plaintiffs,* *v.* Gulf Oil Company, et al., *Defendants.*	No. C-71-608-RES

ORDER

Discovery in the above entitled cause is stayed until further order of the court except as herein specifically permitted.

All parties may join in and shall respond to all discovery being jointly pursued by the plaintiffs and defendants.

Each party shall immediately initiate a program of discovery designed to develop the facts bearing upon the question of whether the alleged conspiracy was one affecting interstate commerce. All requests for admission and all interrogatories directed to that issue shall be filed and served on or before January 20, 1972. All plaintiffs shall on or before January 20, 1972, send to defendants the names and addresses of the persons connected with plaintiffs who know the facts bearing upon the interstate commerce problem, and defendants shall each within the same time furnish a similar list. Either party wishing to take depositions bearing solely on the interstate commerce aspect of this case shall notice such depositions within ten (10) days following the receipt of the list and shall take the same within thirty (30) days following the receipt of

such list. It is contemplated that discovery on this issue will be completed by February 19, 1972. If defendants believe that a summary judgment on the interstate commerce point is proper they shall file a motion therefor not later than March 1, 1972, supported by a brief. Plaintiffs shall have twenty (20) days within which to respond.

DATED this 30th day of December, 1971.

/s/ RUSSELL E. SMITH
Russell E. Smith
United States District Judge

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 22, 1972]

ANSWERS OF PLAINTIFFS COPP PAVING COMPANY, INC., COPP EQUIPMENT COMPANY, INC., AND ERNEST A. COPP TO DEFENDANTS' THIRD SET OF INTERROGATORIES PROPOUNDED TO PLAINTIFFS

Plaintiffs Copp Paving Company, Inc., Copp Equipment Company, Inc., and Ernest A. Copp answer Defendants' Third Set of Interrogatories Propounded to Plaintiffs, as follows:

INTERROGATORY NO. 1:

State separately as to each plaintiff:

(a) whether he or it was engaged in the business of selling asphaltic concrete; and

(b) whether he or it was engaged in the highway construction business.

ANSWER TO INTERROGATORY NO. 1:

(a) Yes.

(b) Yes.

INTERROGATORY NO. 2:

State separately, as to each plaintiff, whether he or it purchased:

(a) liquid asphalt from any marketer thereof located outside California;

(b) aggregates from any marketer thereof located outside California;

(c) asphaltic concrete from any marketer thereof located outside California.

ANSWER TO INTERROGATORY NO. 2:

(a) Yes.

(b) Yes.

(c) Yes. By way of explanation of the foregoing, the items are purchased from marketers who, since they sell to plaintiff Copp, obviously sell in Southern California. This does not imply, however, that the same marketers do not have similar products which they sell outside the State of California.

INTERROGATORY NO. 3:

If the answer to Interrogatory 2, or any part thereof, is affirmative, state separately with respect to each such purchase, the following:

(a) When, where, from whom and by whom it was made;

(b) The product(s) and tonnage(s) involved and the approximate percentage of plaintiff's total purchases of that product for that year which it represented; and

(c) The locations from which and to which delivery was made.

ANSWER TO INTERROGATORY NO. 3:

This interrogatory has previously been answered. In our previous responses to interrogatories, we have supplied records of all of our purchases as per invoice. For example, all of the original liquid asphalt purchase invoices have been produced and copies of same are in the hands of the defendant. These invoices will show where, when and from whom each purchase was made, the product and tonnage involved and the location to which delivery was made.

INTERROGATORY NO. 4:

State separately, with respect to each plaintiff that was engaged in the business of selling asphaltic concrete, the following:

(a) The area or areas of California in which he or it engaged in such business and, if different, the area or areas of California served by his or its hot plant;

(b) Whether he or it sold asphaltic concrete for use outside California; and

(c) If the answer to (b) is affirmative, the following with respect to each such sale:

(1) When and to whom it was made, and where it was used;

(2) The product(s) and tonnage(s) involved, and the approximate percentage of plaintiff's total sales of that product for that year which it represented; and

(3) The locations from which and to which delivery was made.

ANSWER TO INTERROGATORY NO. 4:

(a) The general area in which the plaintiffs do business is the southern area of Los Angeles County, and generally confined within a 30-35 mile radius of the location of the plaintiffs' hot plant located in Artesia, California.

(b) No.

(c) Inapplicable.

INTERROGATORY NO. 5:

State separately, with respect to each plaintiff that was engaged in the highway construction business, the following:

(a) The area or areas of California in which he or it engaged in such business;

(b) Whether he or it performed any highway construction projects outside California; and

(c) If the answer to (b) is affirmative, the following with respect to each such project:

(1) When, where and for whom it was performed, and the general nature of the performance rendered;

(2) The total dollar amount received by plaintiff for his or its performance, and the approximate percentage of

plaintiff's total receipts from its highway construction business in that year which it represented; and

(3) If plaintiff furnished asphaltic concrete, liquid asphalt or aggregates in connection with the project, the product(s) and tonnage(s) so furnished, and the locations from which and to which delivery of each such product was made.

ANSWER TO INTERROGATORY NO. 5:

(a) The general area in which the plaintiffs were engaged in highway construction business was the southern area of Los Angeles County, and generally confined within a 30-35 mile radius of the location of the plaintiffs' hot plant located in Artesia, California.

(b) No.

(c) Inapplicable.

INTERROGATORY NO. 6:

With reference to the allegations of the amended complaint that defendants violated Section 1 of the Sherman Act by allegedly combining and conspiring to restrain trade and commerce in the business of selling asphaltic concrete and in the business of trading and paving roads and highways, state separately, as to each such business, the following:

(a) Whether plaintiffs contend that the alleged combination and conspiracy was entered into and carried on in the course of interstate trade and, if so, each fact on which this contention is based; and

(b) Whether plaintiffs contend that the alleged combination and conspiracy had a direct and substantial effect on interstate trade and commerce and, if so, each fact on which this contention is based.

ANSWER TO INTERROGATORY NO. 6:

(a) Yes. The facts upon which this contention is stated to be true are based in part upon the following:

(1) That the following facts are true as alleged in the plaintiffs' complaint:

"17. Beginning at a date unknown to plaintiffs and continuing at least to the date of the filing of this complaint, defendants, and each of them together with the co-conspirators, have engaged in a continuous agreement, combination, conspiracy and concert of action in the State of California, including the County of Los Angeles, and in other western states of the United States, in unreasonable restraint of interstate commerce and trade, in the sale of hot asphalt oil, asphaltic concrete, and in the business of grading and paving of roads and highways and the defendants, and each of them, have purposely and with deliberate and specific intent, attempted to monopolize, conspired with each other and the co-conspirators, to monopolize and did monopolize the aforesaid trade and commerce, all in violation of Sections 1 and 2 of the Sherman Act.

"18. One of the purposes and objectives of the aforesaid combination and conspiracy to restrain and the combination and conspiracy to monopolize, attempt to monopolize and monopolization has been the destruction and elimination of plaintiffs as a viable entity so that:

(a) Plaintiffs would be eliminated as a competitor of Industrial and Sully-Miller;

(b) Plaintiffs would be penalized for remaining as an independent competitor in the manufacture and sale of asphaltic concrete, and in the business of grading and paving highways and roads.

"19. In furtherance of the above-described violations of said Anti-trust laws, the defendants, and each of them, together with the co-conspirators, agreed to and in fact engaged, among other things, in the following acts and practices:

(a) Fixed, stabilized and maintained the prices at which hot asphalt oil would be sold to end users, including governmental agencies and to hot plant owners, including plaintiffs;

(b) Allocated and exchanged between each other supplies of crude petroleum and petroleum products, including, but not limited to supplies of hot asphalt;

(c) Fixed, stabilized and maintained the prices at which asphaltic concrete would be sold to end users, including governmental agencies, and to contractors;

(d) Eliminated competition and obtained and exercised monopoly power in the operation of hot plants and in the sale of asphaltic concrete by acquiring ownership and control of a substantial number of hot plants, including more than sixty percent (60%) of all of the hot asphalt plants operated in Southern California and in Los Angeles and Orange Counties;

(e) Allocated and divided, on a geographic basis and upon a customer basis, the outlets to whom hot asphalt oil and asphaltic concrete would be sold;

(f) Sold asphaltic concrete at unreasonably low prices in the areas in which they competed with plaintiffs and subsidized said unreasonably low prices by artificially maintaining prices in other areas in which plaintiffs did not compete;

(g) Sold and installed asphaltic concrete at or below cost in areas where plaintiffs competed with defendants and subsidized said sales by artificially maintaining higher prices in areas where plaintiffs did not compete;

(h) Threatened actual and potential customers of plaintiffs that unless they refrained from purchasing asphaltic concrete from plaintiffs in plaintiffs' area of competition, that said customers would be unable to obtain supplies of asphaltic concrete at a competitive price in other areas where said customers had no other source of supply other than defendants.

(i) Extended unreasonably advantageous credit terms to customers in order to preclude said customers from purchasing asphaltic concrete from any other suppliers, including plaintiffs;

(j) Required customers who were indebted to defendants to purchase all of their asphaltic concrete from said defendants upon threat of immediately enforcing the collection of outstanding debt, thereby precluding said customers from purchasing asphaltic concrete from other suppliers, including plaintiffs;

(k) Tied the sale of other commodities, including base rock material, and tied the availability of credit to the sale of asphaltic concrete so as to induce and require purchasers of asphaltic concrete to purchase their supply thereof from Sully-Miller and not to purchase their supply from third parties, including plaintiffs;

(l) Sold hot asphalt oil and asphaltic concrete in such a manner as to discriminate in price between purchasers of such commodities of like grade and quality where the effect of such discrimination was to substantially lessen competition and tended to create a monopoly;

(m) Gulf acquired all of the capital stock of Industrial, as hereinabove alleged, and the effect thereof may be substantially to lessen competition and to tend to create a monopoly, in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended; and

(n) Union acquired all of the capital stock of Sully-Miller, as hereinabove alleged, and the effect of that acquisition may be substantially to lessen competition, and to tend to create a monopoly, in violation of Section 7 of the

Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended."

(2) That each of the defendants is engaged in interstate commerce in that their business is that of constructing and supplying materials for the construction of Federal roads and highways planned and controlled by the Federal Government, likewise financed by the Federal Government under the Streets and Highways Act of the United States Code Annotated, Title 23 §§ 104, et seq.

(3) The defendants are further engaged in interstate commerce by virtue of the fact that a substantial portion of the crude oil which is refined for purposes of producing the various petroleum products, including liquid asphalt, is brought into the State of California from foreign countries.

(4) The defendants are further engaged in interstate commerce by virtue of the fact that each of the defendants does business across state lines and does sell and transport across state lines the specific asphaltic products which are the subject of competition involving plaintiff Copp.

(b) Plaintiffs do contend that the alleged combination and conspiracy had a direct and substantial effect on interstate trade and commerce. It is plaintiffs' understanding that where there is a multi-state conspiracy as alleged and an agreement to divide up the markets between the various competitors on a geographic basis in order to avoid competition, this agreement and geographical division has and is presumed to have, a direct and substantial effect on interstate trade and commerce.

INTERROGATORY NO. 7:

With reference to the allegations of the amended complaint that defendants violated Section 2 of the Sherman Act by attempting to monopolize, conspiring to monopolize and monopolizing trade and commerce in the business of selling asphaltic concrete and in the business of grading and paving roads and highways, state separtely, as to each such business, the following:

(a) The geographic area or areas in which plaintiffs contend that defendants attempted to monopolize, conspired to monopolize and monopolized such business;

(b) The name and address of each person, firm or corporation that was engaged in such business in each area identified in response to (a);

(c) Whether plaintiffs contend that such alleged attempt or attempts to monopolize, conspiracy or conspiracies to monopolize, and monopolization or monopolizations occurred in the course of interstate commerce and, if so, each fact on which such contention is based; and

(d) Whether plaintiffs contend that such alleged attempt or attempts to monopolize, conspiracy or conspiracies to monopolize, and monopolization or monopolizations had a direct and substantial effect on interstate commerce and, if so, each fact on which such contention is based.

ANSWER TO INTERROGATORY NO. 7:

(a) The geographical areas in which it is contended the defendants attempted to monopolize, conspired to monopolize and monopolized were in the states of California, Oregon, Washington, Arizona, Nevada, and New Mexico. The names and addresses of each firm engaged in the areas described are all of the defendants named in the action. The plaintiff cannot at this time, with specificity, name the geographical areas which were assigned to each of the defendants for purposes of their exploitation to the exclusion of the other defendants.

(c) The answer is yes. The facts upon which said contentions are based are (1) the defendants acquire their crude petroleum across state lines. (2) The defendants and each of them ship their products across state lines. (3) The specific and primary business

of these defendants which relates to their areas of competition against the plaintiff Copp is "in commerce" in that the specific business or industry referred to is the paving of highways, and the highways concerned are to a substantial degree Federal or interstate highways.

(d) The attempts to monopolize, the conspiracy to monopolize, and the monopolization itself had a direct and substantial effect on interstate commerce. The monopoly we are describing is a geographical division of the market, and where such a territorial division occurs, there is a reduction in competition among the participants, and an effect on interstate commerce is presumed.

INTERROGATORY NO. 8:

With reference to the allegations in the amended complaint that defendants violated the Robinson Patman Act by allegedly engaging in price discrimination in the sale of liquid asphalt, state the following:

(a) The business or businesses as to which plaintiffs contend that the effect of such alleged price discrimination may be to substantially lessen competition and to tend to create a monopoly, and, with respect to each such business, each fact on which plaintiffs base their contention that such business was a line of interstate commerce;

(b) The geographic area or areas in which plaintiffs contend that the effect of such alleged price discrimination may be to substantially lessen competition or tend to create a monopoly;

(c) With respect to each business and geographic area identified in response to (a) and (b), the name and address of each person, firm or corporation who engaged in that business in that area; and

(d) Separately, with respect to each defendant who allegedly engaged in such price discrimination, each fact on which plaintiffs base their contention that that defendant:

(1) was engaged in interstate commerce; and

(2) engaged in such alleged price discrimination in the course of interstate commerce.

ANSWER TO INTERROGATORY NO. 8:

(a) The business or businesses where competition is substantially lessend are the businesses identified as the oil refiners whose business, among other things, is to produce liquid asphalt, and, secondarily, those businesses which are asphalt applicators and contractors. As to the first group, to wit, the refiners of liquid asphalt, they are in interstate commerce upon the following grounds:

(1) A substantial portion of the crude petroleum comes from across state lines;

(2) A substantial portion of the liquid asphalt products are shipped across state lines;

(3) A vast preponderance of liquid asphalt produced by the refiners is to be ultimately applied on interstate and Federal roads and highways which are "in commerce."

As to the contractors and dealers in liquid asphalt (as distinguished from the refiners of liquid asphalt) the plaintiffs base their contention that such businesses are in interstate commerce upon the fact that:

(1) They do business across state lines;

(2) They ship their product across state lines;

(3) A substantial portion of their work which is constructing highways is performed on interstate and Federal highways, which are by definition "in commerce."

(b) The geographic areas in which the price discrimination lessens competition and tends to create a monopoly is the area de-

fined as the western states, including California, Arizona, Nevada, New Mexico, Washington, and Oregon.

(c) The plaintiff cannot identify at this time the specific geographic areas which had been assigned by conspiratorial agreement to each of the defendants for its specific exploitation. Plaintiff is able to state at this time that approximately eighty-five per cent (85%) of the liquid asphalt business within Los Angeles County is controlled by two companies, to wit, Industrial Asphalt, which in turn is owned by Gulf Oil Company, and Sully-Miller, which in turn is owned by Union Oil. The exact tonnage or measured product which is sold is information within the knowledge of the defendants.

(d) The facts upon which plaintiffs contend the defendants were in interstate commerce is set forth in Answer to Interrogatory No. 8 (a) hereinabove. The two defendants who are in immediate and direct competition with the plaintiff are Sully-Miller and Industrial. Each of said defendants does business across state lines, and further, a substantial portion of their business is in the construction and maintenance of interstate and Federal highways, which is "in commerce." The specific way the price discrimination is carried out as between these two defendants and the balance of the industry is by the simple means of the parent company making liquid asphalt products available to the subsidiary company at a price substantially less than that available to independent asphalt contractors at large. For example, with Industrial Asphalt, Industrial purchases the total liquid asphalt production of the Gulf Oil Company at a price which both Gulf and Industrial refuse to disclose and then resell the product to the general industry likewise at a price which both Gulf and Union refuse to disclose. It is presumed by the plaintiff for purposes of this motion that Industrial sells their product at a price substantially higher than the price they purchase the same

product at and they are, therefore, given an automatic advantage over any competitor since the competitors are buying retail from Industrial, while Industrial is buying wholesale from Gulf.

INTERROGATORY NO. 9:

Answer Interrogatory 8 as though the words "liquid asphalt" used therein read "asphaltic concrete".

ANSWER TO INTERROGATORY NO. 9:

Interrogatory No. 9 has been answered in the Answer to Interrogatory No. 8 in that the two defendants, to wit, Industrial and Sully-Miller, are producers of asphaltic concrete, and further, that the asphaltic concrete is produced for the specific purpose of applying same to interstate and Federal highways, and a substantial portion of the business of each defendant is in the construction of the interstate and Federal highways.

INTERROGATORY NO. 10:

With reference to the allegations of the amended complaint that defendants violated Section 3 of the Clayton Act by allegedly entering into tying agreements in connection with the sale of asphaltic concrete, state the following:

(a) The business or businesses as to which plaintiffs contend that the effect of such alleged tying agreements may be to substantially lessen competition and tend to create a monopoly and, with respect to each such business, each fact on which plaintiffs base their contention that such business was a line of interstate commerce;

(b) The geographic area or areas in which plaintiffs contend that the effect of such alleged tying agreements may be to substantially lessen competition or tend to create a monopoly;

(c) With respect to each business and geographic area identified in response to (a) and (b), the name and address of each person, firm or corporation who engaged in that business in that area; and

(d) Separately, with respect to each defendant who allegedly entered into such tying agreements, each fact on which plaintiffs base their contention that that defendant:

(1) was engaged in interstate commerce; and

(2) entered into such alleged tying agreements in the course of interstate commerce.

ANSWER TO INTERROGATORY NO. 10:

The information requested in Interrogatory No. 10 has been supplied by the Answer to the previous interrogatory in that the two principal competitors of the plaintiff are owned by the defendants Gulf and Union. In all other respects, the answer to Interrogatory No. 10 is the same as the answer to Interrogatory No. 8.

INTERROGATORY NO. 11:

With reference to the allegations of the amended complaint that the acquisition, by defendant Gulf Oil Corporation, of all the capital stock of defendant Industrial Asphalt, Inc. was in violation of Section 7 of the Clayton Act, state the following:

(a) The business or businesses in which plaintiffs contend that the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly and, as to each such business, each fact on which plaintiffs base their contention that such business was a line of interstate commerce;

(b) The geographic area or areas in which plaintiffs contend that the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly;

(c) With respect to each such business and area identified in (a) and (b), the name and address of each person, firm or corporation engaged in that business in that area; and

(d) Each fact on which plaintiffs base their contention that Industrial Asphalt, Inc. was engaged in interstate commerce.

ANSWER TO INTERROGATORY NO. 11:

(a) The business or businesses in which the effect of such acquisitions to substantially lessen competition and create a monopoly is (1) in the refining business, (2) in the business of selling liquid asphalt, and (3) in the business of asphalt contracting. The fact upon which plaintiffs base their contention that the businesses are in interstate commerce are:

(1) that the crude petroleum crosses state lines;

(2) that the liquid asphalt is shipped across state lines;

(3) that the companies within the area of selling and distributing liquid asphalt and asphaltic products are doing business across state lines;

(4) that the asphaltic products are designed and used substantially for the construction and paving of interstate and Federal roads, and are therefore by definition "in commerce."

(b) The geographic area or areas are the western states including California, Arizona, Nevada, New Mexico, Washington, and Oregon.

(c) The names and addresses of each of the defendants are involved, but the plaintiff cannot identify with specificity the areas which each of the defendants have as their domain as a result of the division of the market.

(d) (1) That Industrial Asphalt maintains and owns plants in Arizona and Nevada;

(2) that Industrial Asphalt shipped across state lines on a daily basis to Arizona and Nevada.

(3) that Industrial Asphalt takes the total supply of its asphaltic products and, in effect, is the distributor on behalf of Gulf Oil of its asphaltic products;

(4) that a substantial portion of work performed by Industrial Asphalt is on interstate and Federal roads; and that said roads are by definition "in commerce."

INTERROGATORY NO. 12:

Answer Interrogatory 11 as though the words "Gulf Oil Corporation" used therein read "Union Oil Company of California", and as though the words "Industrial Asphalt, Inc." used therein read "Sully-Miller Contracting Company."

ANSWER TO INTERROGATORY NO. 12:

(a) Sully-Miller Contracting Company is owned by the Union Oil Company.

(b) Sully-Miller does business across state lines, including, but not limited to, transactions in Utah and Thailand.

(c) Sully-Miller's business is that of an asphalt contractor whose major business is the constructing and paving of highways, and a substantial portion of their work is upon interstate and Federal highways, which said work is "in commerce."

Dated: February 18, 1972.

Respectfully submitted,

CORINBLIT AND SHAPERO

By: /s/ MARTIN M. SHAPERO
Martin M. Shapero
Attorney for Plaintiffs

VERIFICATION

State of California

County of Los Angeles—ss.

Ernest A. Copp, first duly sworn, states:

I am the President of Copp Paving Company and Copp Equipment Company, and I am authorized to make this verification on behalf of said companies. I have read the foregoing Answers of Plaintiffs Copp Paving Company, Inc., Copp Equipment Company, Inc., and Ernest A. Copp to Defendants' Third Set Of Interrogatories Propounded to Plaintiffs, and the matters stated therein are true to the best of my knowledge, information and belief.

/s/ ERNEST A. COPP
Ernest A. Copp

[Jurat and Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 22, 1972]

RESPONSE OF DEFENDANT UNION OIL COMPANY OF CALIFORNIA TO PLAINTIFFS' INTERROGATORIES

Union Oil Company of California, hereafter "Union," responds to Interrogatories Propounded by Plaintiff Copp with Reference to the Issue of Interstate Commerce, dated January 19, 1972, as follows:

* * * *

INTERROGATORY NO. 10

With reference to the source of the crude oil which your company processes, state for each year from 1958 to date the source of said crude oil, and in said response set forth specifically:

A. The total amount of crude oil processed by your company within the State of California for each year in question. Set forth the number in terms of either gallons or barrels or the standard measurement which you may use at your refinery.

B. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was in the confines of the State of California.

C. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was outside of the confines of the State of California.

D. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was outside the confines of the continental United States.

RESPONSE TO INTERROGATORY NO. 10

Union objects to this interrogatory as to any period of time on the ground that information respecting the sources of crude oil processed by Union is irrelevant to the question whether the alleged antitrust activities in connection with the marketing of other products occurred in or affected interstate commerce. However, without waiving its objections to this interrogatory, and solely for purposes of moving this case along and avoiding a dispute over inconsequential matters, the information requested for the years 1966 through 1970 is set forth in Exhibit A hereto.

INTERROGATORY NO. 11

State the location of each refinery owned by your company within the State of California, identifying the period of time said refinery has been in existence from the years 1958 to date.

A. With reference to the refineries identified herein, set forth and state the capacity of each refinery in terms of the total crude oil processed by said refinery for each year, from 1958 to date.

B. State for each refinery the total amount of petroleum products produced by each refinery from 1958 to date, including gasoline, kerosene, motor oil, and liquid asphalt production. (The list requested is by way of example only, and if any other petroleum products are produced, you will set forth each and every other petroleum product so produced including quantity thereof.)

RESPONSE TO INTERROGATORY NO. 11

During all of the period June 24, 1966 to December 30, 1970, Union owned the following refineries in the State of California:

Los Angeles Refinery
Wilmington, California

San Francisco (Oleum) Refinery
Rodeo, California

Santa Maria Refinery
Arroyo Grande, California

The total amounts of crude oil processed by each such refinery during the years 1966 through 1970, and the total amounts of liquid asphalt produced at each such refinery during the years 1966 through 1970 are set forth in Exhibit B hereto. Except as so answered, Union objects to this interrogatory on the ground that information respecting petroleum products other than liquid asphalt is irrelevant.

INTERROGATORY NO. 12

For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed within the confines of the State of California.

A. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confines of the State of California.

B. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confines of the continental United States.

RESPONSE TO INTERROGATORY NO. 12

The total amounts of liquid asphalt sold by Union to customers located in these areas during the years 1966 through 1970 are set forth in Exhibit C hereto. However, the summary sales records from which these figures were taken include both sales of liquid asphalt produced in Union's California refineries and sales of liquid asphalt produced elsewhere. If plaintiffs wish to know only the amount of liquid asphalt sold by Union that was produced by it in its California refineries, it will be necessary to tabulate

this information from Union Form 625, Asphalt Report, and, pursuant to R.C.P. Rule 33(c), Union will make such records available if plaintiffs wish to perform this tabulation. Except as so answered, Union objects to this interrogatory on the ground that information respecting petroleum products other than liquid asphalt is irrelevant.

INTERROGATORY NO. 13

With reference to all crude oil which you have hereinabove identified as its origin being outside the confines of the State of California, identify the means by which you received said oil including a description of the specific boat lines if said oil was received by boat, or the specific railroad lines if said oil was received by rail.

RESPONSE TO INTERROGATORY NO. 13

During the period June 24, 1966 to December 30, 1970, all such crude oil was received by tankships, in some instances tankships owned or chartered by Union, and in other instances tankships owned or chartered by other operators, the specific names of whom cannot possibly be relevant to this case.

INTERROGATORY NO. 14

With reference to all petroleum products shipped outside the confines of the State of California by you, identify the means by which you shipped said oil including a description of the specific railroad lines if said oil was shipped by rail.

RESPONSE TO INTERROGATORY NO. 14

During the period June 24, 1966 to December 30, 1970, Union shipped liquid asphalt by tankships owned or chartered by Union and, occasionally, by various rail or truck common carriers, the specific names of whom cannot possibly be relevant to this case. Except as so answered, Union objects to this interrogatory on

the ground that information respecting the shipment of petroleum products other than liquid asphalt is irrelevant to this case.

INTERROGATORY NO. 15

With reference to liquid asphalt, set forth for each year from 1959 to the present, the total amount of liquid asphalt shipped to the states of:

A. Washington;
B. Oregon;
C. Nevada;
D. New Mexico.

RESPONSE TO INTERROGATORY NO. 15

The total amounts of liquid asphalt shipped by Union from its California refineries to its Edmonds, Washington and Portland, Oregon asphalt topping plants in the years 1966 through 1969 are set forth in Exhibit D hereto. However, in order to determine the total amounts shipped by Union to these states, it is necessary to add to the figures set forth in Exhibit D the amounts of liquid asphalt sold by Union to customers in these states that was shipped by Union from its California refineries to these customers. Such figures can be derived by tabulating the information contained in Union Form 625, Asphalt Report, and Union Form 605-T, Order/Invoice. Pursuant to R.C.P. Rule 33(c), Union will make such documents available if plaintiffs wish to perform this tabulation. In the case of shipments by Union to Nevada, the same tabulation must be performed. Union shipped no asphalt to New Mexico.

INTERROGATORY NO. 16

With reference to sales made within the State of California, set forth for the years 1958 to the present, the total amount of liquid asphalt sold in each county of the State of California.

INTERROGATORY NO. 17

With reference to the sale of liquid asphalt, identify for each year from 1958 to date, each company to whom you have sold liquid asphalt, setting forth by way of summary for each year the total amount of liquid asphalt sold to said individual company. (Listing, for example, the total amount of liquid asphalt sold by Gulf to Sully-Miller for the year 1965.)

RESPONSE TO INTERROGATORIES NOS. 16 AND 17

This information can only be derived by tabulating sales data contained in Union Form 625, Asphalt Report. Pursuant to R.C.P. Rule 33(c), Union will make such documents available if plaintiffs wish to perform this tabulation.

Dated: February 22, 1972.

Douglas C. Gregg
E. A. McFadden

Moses Lasky
Richard Haas
George A. Cumming, Jr.
Brobeck, Phleger & Harrison

By /s/ GEORGE A. CUMMING, JR.
George A. Cumming, Jr.

Attorneys for Defendant Union Oil Company of California

EXHIBIT A

Sources of Crude Oil Processed in Union's California Refineries, 1966-1970 (Bbls)

	California	Other U.S.	Foreign	Total
1966	61,691,830	None	2,445,335	64,137,165
1967	62,116,132	1,706,688	1,231,527	65,054,347
1968	57,268,214	10,625,447	873,010	68,766,671
1969	53,653,070	13,420,006	2,807,035	69,880,111
1970	51,679,237	10,720,427	1,698,087	64,097,751

EXHIBIT B

Crude Oil Processed and Liquid Asphalt Produced in Union's California Refineries, 1966-1970

Refinery & Year	Total Crude Processed (Bbls)	Total Asphalt Produced (Tons)
1966—Los Angeles	34,119,607	173,818
Santa Maria	11,292,692	41,071
San Francisco	18,724,866	137,296
1967—Los Angeles	33,427,793	173,464
Santa Maria	12,154,616	34,189
San Francisco	19,471,938	116,478
1968—Los Angeles	36,233,999	168,749
Santa Maria	12,543,723	42,437
San Francisco	19,988,949	119,881
1969—Los Angeles	37,106,852	163,787
Santa Maria	11,575,400	40,466
San Francisco	21,192,859	152,558
1970—Los Angeles	32,075,603	225,438
Santa Maria	10,631,171	40,651
San Francisco	21,390,997	161,334

EXHIBIT C

Sales of Liquid Asphalt by Union, 1966-1970 (Tons)

Year	California	Other U.S.	Foreign
1966	239,292	141,329	3,654
1967	218,354	121,870	3,799
1968	246,792	232,984	Not available
1969	269,157	262,964	2,044
1970	285,504	304,171	17,049

EXHIBIT D

Shipments of Liquid Asphalt by Union to Its Edmonds, Washington, and Portland, Oregon Asphalt Plants 1966-1970 (Tons)

Year	Edmonds	Portland
1966	75,194	—0—
1967	74,041	—0—
1968	—0—	17,032
1969	—0—	60,659
1970	11,291	84,337

VERIFICATION

State of California
County of Los Angeles—ss.

R. P. Van Zandt, first duly sworn, states:

I am an officer, to wit Assistant Secretary of Union Oil Company of California, a corporation, and am authorized to and make this vertification on behalf of said corporation. I have read the foregoing Response of Defendant Union Oil Company of California to Plaintiffs' Interrogatories, and the information stated therein is true, to the best of my knowledge, information and belief.

/s/ R. P. VAN ZANDT

[Jurat and Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 22, 1972]

RESPONSE OF DEFENDANT UNION OIL COMPANY OF CALIFORNIA TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

Defendant Union Oil Company of California (hereafter "Union") responds to "Requests For Admissions Filed Pursuant to The Order Of Court Dated December 30, 1971, Relating To The Issue Of Interstate Commerce And Whether The Alleged Conspiracy Was One Affecting Interstate Commerce," dated January 19, 1972, as follows:

* * * *

REQUEST FOR ADMISSION NO. 3:

That the Federal Government contributes a portion of the cost of construction of certain public highways.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Union objects to this request, and to requests numbers 4 through 16, which are of a similar vein, on the ground that whether or not the Federal Government contributed money in connection with local highway construction projects, or whether the Federal Government required any particular kind of performance or behavior as a condition of its contribution, is irrelevant to the question of interestate commerce. However, without waiving this objection, and solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 4:

That the basis of such Federal participation is the Federal Aid Highway Act (23 U.S.C., Sections 101 through 141).

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 5:

That under the Federal Aid Highway Act referred to hereinabove, the Federal Government assumes up to ninety percent (90%) of the highway construction costs (23 U.S.C. 120) upon approval by the Secretary of Commerce of the plans and specifications submitted by the various state highway departments (23 U.S.C. Section 109).

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 6:

To qualify for contributions by the Federal Government the state must conform to standards set forth in the statute, such as vehicle weight and width limitations (23 U.S.C., Section 127), control of outdoor advertising (23 U.S.C., Section 131), creation of a highway safety program (23 U.S.C., Section 135), control of junk yards (23 U.S.C., Section 136).

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again,

solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 7:

That each project is subject to the inspection and approval of the Secretary of Transportation and was formerly under the control of the Secretary of Commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 8:

That all wages paid for laborers and mechanics employed by contractors or subcontractors on roads funded by the Federal Aid Highway Act are controlled by the Davis-Bacon Act (40 U.S.C., Section 276A) (23 U.S.C., Section 113).

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 9:

That small business enterprises are to be assisted by the Secretary insofar as feasible in obtaining contracts in order to encourage full and free competition under the Federal Aid Highway Act (23 U.S.C., Section 304).

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 10:

That any state declaring to avail itself of the provisions of the Federal Aid to Highway Act (Title 23, U.S.C. 101 et seq.) shall have a highway department which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by the Act (23 U.S.C., Section 302).

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 11:

That the State of California has qualified to receive and does receive funds from the Federal Government pursuant to Title 23 U.S.C. Section 101 et seq., and assents specifically to the provisions of Title 23 of the United States Code relative to Federal aid and other cooperative highway work (Section 820, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 12:

That the State of California has apportioned ninety-eight and one-half percent (98½%) of the money received by it under the Federal Highway Act of 1950 for the improvement of county highways (Section 201, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 13:

That the plaintiff Copp, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C. Section 101 et seq.) is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over consequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 14:

That the defendant Sully-Miller, in order to perform work on the county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again,

solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 15:

That the defendant Industrial, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the Executive Order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Union admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 16:

Attached hereto and made a part hereof are a group of documents labeled Exhibit "A", 1 through 11 respectively. Does Sully-Miller admit the documents so identified as "A" 1 through 11 are true and correct photostatic documents submitted by Sully-Miller on or about the date, February 2, 1970, reflecting the compliance by Sully-Miller to Executive Order 11246.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

This request is not addressed to Union.

REQUEST FOR ADMISSION NO. 17:

That the defendant Gulf owns all the outstanding stock of the defendant Industrial.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Admitted.

REQUEST FOR ADMISSION NO. 18:

That Union Oil owns all the stock of the defendant Sully-Miller.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Admitted.

REQUEST FOR ADMISSION NO. 19:

That the defendant Union is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Union admits that, in some of its operations, it is engaged in interstate commerce, denies that, in other of its operations, it is so engaged, and specifically denies that it is or was engaged in interstate commerce when it sells or sold, to customers located in California, liquid asphalt refined in California.

REQUEST FOR ADMISSION NO. 20:

That the defendant Gulf is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Union admits that, in some of its operations, defendant Gulf is engaged in interstate commerce, denies that, in other of its operations, defendant Gulf is so engaged, and specifically denies that defendant Gulf is or was engaged in interstate commerce when defendant Gulf sells or sold, to customers located in California, liquid asphalt refined in California.

REQUEST FOR ADMISSION NO. 21:

That the defendant Edgington is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Union has made reasonable inquiry, but the information known to it is insufficient to enable it to admit or deny the matter stated in this request. Union is therefore without knowledge or information sufficient to permit it to truthfully admit or deny the matter stated.

REQUEST FOR ADMISSION NO. 22:

That the defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Union admits that defendant Edgington sells hot asphalt oil to customers located in states other than California and has made a reasonable inquiry as to the remaining matter set forth in this request, but the information known to Union is insufficient to permit it to admit or deny the remaining matters stated. Union is therefore without knowledge or information sufficient to permit it to truthfully admit or deny that defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States.

REQUEST FOR ADMISSION NO. 23:

That the defendant Union ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Admitted.

REQUEST FOR ADMISSION NO. 24:

That the defendant Gulf ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Denied.

Dated: February 18, 1972.

Douglas C. Gregg
E. A. McFadden
Moses Lasky
Richard Haas
George A. Cumming, Jr.
Brobeck, Phleger & Harrison

By /s/ GEORGE A. CUMMING, JR.
George A Cumming, Jr.
Attorneys for Defendant Union Oil Company of California

[Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 22, 1972]

RESPONSE OF DEFENDANT SULLY-MILLER CONTRACTING COMPANY TO PLAINTIFFS' INTERROGATORIES

Sully-Miller Contracting Company, hereafter "Sully-Miller", responds to Interrogatories Propounded by Plaintiff Copp with Reference to the Issue of Interstate Commerce, dated January 19, 1972, as follows:

* * * *

INTERROGATORY NO. 18

List for each year from 1958 to date the total amount of liquid asphalt purchased by your organization.

INTERROGATORY NO. 19

With reference to liquid asphalt purchases set forth hereinabove, state for each year from 1958 to date by volume the total amount of asphalt purchased, identifying the company from which said purchases were made. (For example, Industrial will please state the total amount of liquid asphalt purchased from Union for the year 1965.)

RESPONSE TO INTERROGATORIES NOS. 18 AND 19

All the liquid asphalt purchased by Sully-Miller came from refineries located in California. During the years 1966 through 1970, these purchases were as follows:

Year	Vendor	Tons
1966	Edgington Oil Company	20,584
	Union Oil Company	93,898
	Total	114,482
1967	Chevron Asphalt Company	4,551
	Edgington Oil Company	8,277
	Union Oil Company	82,843
	Total	95,671
1968	Chevron Asphalt Company	4,413
	Edgington Oil Company	10,955
	Union Oil Company	97,493
	Total	112,861
1969	Chevron Asphalt Company	4,778
	Edgington Oil Company	7,597
	Union Oil Company	75,859
	Total	88,234
1970	Chevron Asphalt Company	6,816
	Edgington Oil Company	13,316
	Union Oil Company	83,219
	Total	103,351

Except as so answered, Sully-Miller objects to this interrogatory on the ground that the information called for is irrelevant.

INTERROGATORY NO. 20

Set forth the geographical location and address of each and every hot plant owned by you now and for each year from 1958 until present.

RESPONSE TO INTERROGATORY NO. 20

See Exhibit A hereto.

INTERROGATORY NO. 21

With reference to each hot plant so identified in previous Interrogatory No. 20, please state after identifying said hot plant how said hot plant was obtained; from whom was said hot plant obtained and what was the method by which said hot plant was acquired.

RESPONSE TO INTERROGATORY NO. 21

See Exhibit A hereto.

INTERROGATORY NO. 22

For each hot plant so identified for each year in question identify and state by volume the total amount of asphalt sold by you outside the confines of the State of California.

RESPONSE TO INTERROGATORY NO. 22

Sully-Miller sold no asphalt at all. If this interrogatory was intended to refer to asphaltic concrete, Sully-Miller sold no asphaltic concrete outside the confines of the State of California at any time.

INTERROGATORY NO. 23

With reference to each year from 1958 to the present, identify the total amount of asphalt sold in each county of the State of California. (For example, set forth for each year from 1958 to date the total amount of asphalt sold in Alpine County.)

RESPONSE TO INTERROGATORY NO. 23

Sully-Miller sold no asphalt at all. If this interrogatory was intended to refer to asphaltic concrete, all sales of asphaltic concrete by Sully-Miller were made either f.o.b. its various hot plants, all of which were located in Los Angeles and Orange Counties, California, or f.o.b. various jobsites, all of which were located in Los Angeles County, Orange County or counties contiguous thereto. Except as so answered, Sully-Miller objects to this interrogatory on the ground that the information called for is irrelevant.

INTERROGATORY NO. 24

Is it your contention that your company is not involved in interstate commerce?

RESPONSE TO INTERROGATORY NO. 24

Yes.

INTERROGATORY NO. 25

If the response to the foregoing question is to the effect that you are not involved in interstate commerce, is it your contention that your company must not abide by Executive Order No. 11246, which is described as the Equal Employment Opportunity Program?

RESPONSE TO INTERROGATORY NO. 25

Sully-Miller need not abide by Executive Order No. 11246 unless, in the exercise of its own business judgment, it chooses to do so. This is so because the Order applies only to contractors and subcontractors performing work on certain federally assisted construction projects, and if Sully-Miller chooses not to perform such work, the Order does not apply to Sully-Miller. Thus, whether or not Sully-Miller abides by the Order is irrelevant to the question of interstate commerce, because the Order is capable of reaching both those who are engaged in interstate commerce and those, like Sully-Miller, who are not so engaged.

INTERROGATORY NO. 26

Does your company comply with Executive Order No. 11246, as amended?

RESPONSE TO INTERROGATORY NO. 26

Yes, as a matter of its own business judgment, but whether or not Sully-Miller complies with the Order is irrelevant to the question of interstate commerce, for the reasons stated in Sully-Miller's response to Interrogatory No. 25.

INTERROGATORY NO. 27

Attached hereto and made a part hereof, marked Exhibit "B", is a letter bearing the date June 30, 1970, which purports to be

special instruction to bidders, prepared by the Board of Supervisors of the County of Los Angeles, State of California, under the direction of James S. Mize, Executive Officer and Clerk of the Board of Supervisors. Are you familiar with the requirements as set forth in Exhibit "B", and in this regard, does your company follow the policies as required by said instruction pursuant to Executive Order 11246, as amended?

RESPONSE TO INTERROGATORY NO. 27

Sully-Miller is familiar with these requirements and follows the policies referred to as a matter of its own business judgment, but whether or not it does so is irrelevant to the question of interstate commerce, for the reasons stated in Sully-Miller's response to Interrogatory No. 25.

Date: February 18, 1972.

Douglas C. Gregg
E. A. McFadden

Moses Lasky
Richard Haas
George A. Cumming, Jr.
Brobeck, Phleger & Harrison

By /s/ GEORGE A. CUMMING, JR.
George A. Cumming, Jr.
Attorneys for Defendant Sully-Miller Contracting Company

EXHIBIT A

HOT PLANTS OWNED BY SULLY-MILLER, 1958-1972

Name and Address	*Period Owned by Sully-Miller, Method of Acquisition, Etc.*
Orange Plant 6145 Santiago Canyon Rd. Orange, California	1958-1972. Constructed by Sully-Miller prior to 1958.
Huntington Beach Plant 7221 Ellis Street Huntington Beach, Calif.	1958-1972. Constructed by Sully-Miller prior to 1958.
Redondo Beach Plant 2901 182nd Street Redondo Beach, Calif.	1962-1969. Acquired through merger with Contractors Asphalt Sales Company.
Long Beach Plant 32nd & Walnut Long Beach, Calif.	1964-1972. Purchased from ANSCO Company.
El Monte Plant 5500 N. Peck Road El Monte, California	1965-1972. Acquired through merger with Valley Asphalt Sales Company.
Capristrano Plant 29261 Rosenbaum Road San Juan Capristrano, Calif.	1965-1972. Acquired through merger with Contractors Asphalt Products Company.
South Gate Plant 5625 Southern Ave. South Gate, Calif.	1965-1972. Acquired through merger with Contractors Asphalt Products Company.
Santa Ana Plant 2818 Barranca Santa Ana, Calif.	1965-1972. Constructed by Sully-Miller.
Torrance Plant 20900 S. Normandie Torrance, Calif.	1965-1972. Purchased from Warren Southwest Company.
Duarte Plant 1112 E. Meridian Duarte, Calif.	1965-1970. Purchased from Warren Southwest Company.
Inglewood Plant 441 Railroad Place Inglewood, Calif.	1966-1972. Physical equipment purchased from Warren Southwest Company at Palmdale, California and moved to Inglewood location on property leased by Sully-Miller.

VERIFICATION

State of California
County of Los Angeles—ss.

Robert K. MacGregor, first duly sworn, states:

I am an officer, to wit: President, of Sully-Miller Contracting Company, a corporation, and am authorized to and make this verification on behalf of said corporation. I have read the foregoing response of Defendant Sully-Miller Contracting Company to Plaintiffs' Interrogatories, and the information stated therein is true to the best of my knowledge, information and belief.

/s/ ROBERT K. MACGREGOR

[Jurat and Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 22, 1972]

RESPONSE OF DEFENDANT SULLY-MILLER CONTRACTING COMPANY TO PLAINTIFFS' REQUEST FOR ADMISSIONS

Defendant Sully-Miller Contracting Company (hereinafter "Sully-Miller") responds to "Requests for Admissions Filed Pursuant To The Order Of Court Dated December 30, 1971, Relating To The Issue Of Interstate Commerce And Whether The Alleged Conspiracy Was One Affecting Interstate Commerce," dated January 19, 1972, as follows:

* * * *

REQUEST FOR ADMISSION NO. 3:

That the Federal Government contributes a portion of the cost of construction of certain public highways.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Sully-Miller objects to this request, and to requests numbers 4 through 16, which are of a similar vein, on the ground that whether or not the Federal Government contributed money in connection with local highway construction projects, or whether the Federal Government required any particular kind of performance or behavior as a condition of its contribution, is irrelevant to the question of interstate commerce.

However, without waiving this objection, and solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 4:

That the basis of such Federal participation is the Federal Aid Highway Act (23 U.S.C., Sections 101 through 141).

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 5:

That under the Federal Aid Highway Act referred to hereinabove, the Federal Government assumes up to ninety percent (90%) of the highway construction costs (23 U.S.C. 120) upon approval by the Secretary of Commerce of the plans and specifications submitted by the various state highway departments (23 U.S.C. Section 109).

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

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To qualify for contributions by the Federal Government the state must conform to standards set forth in the statute, such as vehicle weight and width limitations (23 U.S.C., Section 127), control of outdoor advertising (23 U.S.C., Section 131), creation of a highway safety program (23 U.S.C., Section 135), control of junk yards (23 U.S.C., Section 136).

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding

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That each project is subject to the inspection and approval of the Secretary of Transportation and was formerly under the control of the Secretary of Commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

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That all wages paid for laborers and mechanics employed by contractors or subcontractors on roads funded by the Federal Aid Highway Act is controlled by the Davis-Bacon Act (40 U.S.C., Section 276A) (23 U.S.C., Section 113).

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

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That small business enterprises are to be assisted by the Secretary insofar as feasible in obtaining contracts in order to encourage full and free competition under the Federal Aid Highway Act (23 U.S.C., Section 304).

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Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again,

solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 10:

That any state declaring to avail itself of the provisions of the Federal Aid to Highway Act, (Title 23, U.S.C. 101 et seq.) shall have a highway department which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by the Act (23 U.S.C., Section 302).

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 11:

That the State of California has qualified to receive and does receive funds from the Federal Government pursuant to Title 23 U.S.C. Section 101 et seq., and assents specifically to the provisions of Title 23 of the United States Code relative to Federal aid and other cooperative highway work (Section 820, Streets and Highways Code of the State of California).

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That the plaintiff Copp, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C. Section 101 et seq.) is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 14:

That the defendant Sully-Miller, in order to perform work on the county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a

dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 15:

That the defendant Industrial, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the Executive Order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 16:

Attached hereto and made a part hereof are a group of documents labeled Exhibit "A", 1 through 11 respectively. Does Sully-Miller admit the documents so identified as "A" 1 through 11 are true and correct photostatic documents submitted by Sully-Miller on or about the date, February 2, 1970, reflecting the compliance by Sully-Miller to Executive Order 11246.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

Without waiving the objection to this request previously set forth in its Response to Request for Admission No. 3 and, again, solely for the purpose of moving this case along and avoiding a dispute over inconsequential matters, Sully-Miller admits that the matter set forth in this request is true.

REQUEST FOR ADMISSION NO. 17:

That the defendant Gulf owns all the outstanding stock of the defendant Industrial.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Admitted.

REQUEST FOR ADMISSION NO. 18:

That Union Oil owns all the stock of the defendant Sully-Miller.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Admitted.

REQUEST FOR ADMISSION NO. 19:

That the defendant Union is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

Sully-Miller admits that, in some of its operations, defendant Union is engaged in interstate commerce, denies that, in other of its operations, defendant Union is so engaged, and specifically denies that defendant Union is or was engaged in interstate commerce when defendant Union sells or sold, to customers located in California, liquid asphalt refined in California.

REQUEST FOR ADMISSION NO. 20:

That the defendant Gulf is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Sully-Miller admits that, in some of its operations, defendant Gulf is engaged in interstate commerce, denies that, in other of its operations, defendant Gulf is so engaged, and specifically denies that defendant Gulf is or was engaged in interstate commerce when defendant Gulf sells or sold, to customers located in California, liquid asphalt refined in California.

REQUEST FOR ADMISION NO. 21:

That the defendant Edgington is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

Sully-Miller has made reasonable inquiry, but the information known to it is insufficient to enable it to admit or deny the matter stated in this request. Sully-Miller is therefore without knowledge or information sufficient to permit it to truthfully admit or deny the matter stated.

REQUEST FOR ADMISSION NO. 22:

That the defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

Sully-Miller admits that defendant Edgington sells hot asphalt oil to customers located in states other than California and has made a reasonable inquiry as to the remaining matter set forth in this request, but the information known to Sully-Miller is insufficient to permit it to admit or deny the remaining matter stated. Sully-Miller is therefore without knowledge or information sufficient to permit it to truthfully admit or deny that defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States.

REQUEST FOR ADMISSION NO. 23:

That the defendant Union ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

Admitted.

REQUEST FOR ADMISSION NO. 24:

That the defendant Gulf ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Denied.

Dated: February 18, 1972.

Douglas C. Gregg
E. A. McFadden
Moses Lasky
Richard Haas
George A. Cumming, Jr.
Brobeck, Phleger & Harrison

By /s/ GEORGE A. CUMMING, JR.
George A. Cumming, Jr.
Attorneys for Defendant Sully-Miller Contracting Company

[Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 23, 1972]

RESPONSE OF DEFENDANT GULF OIL CORPORATION TO PLAINTIFFS' INTERROGATORIES

Gulf Oil Corporation (hereinafter referred to as "Gulf") responds to Interrogatories Propounded by Plaintiff Copp with Reference to the Issue of Interstate Commerce, dated January 19, 1972, as follows:

* * * *

INTERROGATORY NO. 10.

With reference to the source of the crude oil which your company processes, state for each year from 1958 to date the source of said crude oil, and in said response set forth specifically:

A. The total amount of crude oil processed by your company within the State of California for each year in question. Set forth the number in terms of either gallons or barrels or the standard measurement which you may use at your refinery.

B. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was in the confines of the State of California.

C. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was outside of the confines of the State of California.

D. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was outside the confines of the continental United States.

RESPONSE TO INTERROGATORY NO. 10:

Gulf objects to this interrogatory on the grounds that the information sought is totally irrelevant to the issue raised as to whether or not the alleged acts of this defendant occurred in or had a substantial adverse effect upon interstate commerce. Without waiving its objections, however, Gulf has answered this interrogatory insofar as its available records permit for the years 1965 through 1970 in "Exhibit A," attached hereto.

INTERROGATORY NO. 11.

State the location of each refinery owned by your company within the State of California, identifying the period of time said refinery has been in existence from the years 1958 to date.

A. With reference to the refineries identified herein, set forth and state the capacity of each refinery in terms of the total crude oil processed by said refinery for each year, from 1958 to date.

B. State for each refinery the total amount of petroleum products produced by each refinery from 1958 to date, including gasoline, kerosene, motor oil, and liquid asphalt production. (The list requested is by way of example only, and if any other petroleum products are produced, you will set forth each and every other petroleum product so produced including quantity thereof.)

RESPONSE TO INTERROGATORY NO. 11:

At all times since October 1, 1965, Gulf has owned and operated one refinery in the State of California which is located in Santa Fe Springs, California. Gulf objects to this interrogatory to the extent that it seeks information pertaining to the production at said refinery of any product other than asphalt on the grounds that said interrogatory to that extent is irrelevant to the subject matter of this litigation and is not likely to lead to the discovery of relevant evidence. The production of liquid asphalt at Gulf's

Santa Fe Springs Refinery for the years 1965 through 1970, is set forth in "Exhibit A."

INTERROGATORY NO. 12.

For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed within the confines of the State of California.

A. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confines of the State of California.

B. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confines of the continental United States.

RESPONSE TO INTERROGATORY NO. 12:

Gulf objects to this interrogatory to the extent that it seeks information pertaining to products refined at Gulf's Santa Fe Springs Refinery other than liquid asphalt on the grounds that to that extent the information sought is irrelevant to the subject matter of this litigation and is not likely to lead to the discovery of relevant evidence. All of the liquid asphalt produced by Gulf at its Santa Fe Springs Refinery was sold by Gulf in Los Angeles County.

INTERROGATORY NO. 13.

With reference to all crude oil which you have hereinabove identified as its origin being outside the confines of the State of California, identify the means by which you received said oil including a description of the specific boat lines if said oil was

received by boat, or the specific railroad lines if said oil was received by rail.

RESPONSE TO INTERROGATORY NO. 13:

During the period October 1, 1965 to December 30, 1970, all such crude oil was received by Gulf by pipelines or tank ships.

INTERROGATORY NO. 14.

With reference to all petroleum products shipped outside the confines of the State of California by you, identify the means by which you shipped said oil including a description of the specific railroad lines if said oil was shipped by rail.

RESPONSE TO INTERROGATORY NO. 14:

Gulf objects to this interrogatory to the extent that it seeks information relating to products other than liquid asphalt on the grounds that such interrogatory is irrelevant. At no time since October 1, 1965 has Gulf shipped liquid asphalt outside the confines of the State of California.

INTERROGATORY NO. 15.

With reference to liquid asphalt, set forth for each year from 1959 to the present, the total amount of liquid asphalt shipped to the states of:

A. Washington;
B. Oregon;
C. Nevada;
D. New Mexico.

RESPONSE TO INTERROGATORY NO. 15:

The answer to this interrogatory is set forth in Gulf's Response to Interrogatory No. 14.

INTERROGATORY NO. 16.

With reference to sales made within the State of California, set forth for the years 1958 to the present, the total amount of liquid asphalt sold in each county of the State of California.

RESPONSE TO INTERROGATORY NO. 16:

Since October 1, 1965, all of Gulf's sales of liquid asphalt were made in Los Angeles County, California.

INTERROGATORY NO. 17.

With reference to the sale of liquid asphalt, identify for each year from 1958 to date, each company to whom you have sold liquid asphalt, setting forth by way of summary for each year the total amount of liquid asphalt sold to said individual company (listing, for example, the total amount of liquid asphalt sold by Gulf to Sully-Miller for the year 1965).

RESPONSE TO INTERROGATORY NO. 17:

Since October 1, 1965, all of Gulf's sales of liquid asphalt were made to Industrial Asphalt, a wholly owned subsidiary of Gulf.

Dated: February 18, 1972.

R. W. Curtis
F. E. Laymon
D. R. Arnett

By /s/ R. W. CURTIS
R. W. Curtis

Attorneys for Defendant Gulf Oil Corporation

GULF OIL CORPORATION
Santa Fe Springs Refinery
Analysis of Crude Charges
Years 1965-70 Inclusive

	YEAR					
	1965*	1966	1967	1968	1969	1970
Domestic Crude Charged/Bbls.	8,569,200	8,467,906	12,120,157	14,945,095	14,743,588	13,171,652
Foreign Crude Charged/Bbls.	7,656,078	7,213,086	4,555,248	2,173,124	2,240,412	4,364,238
Total Crude Charges/Bbls.	16,225,278	15,680,992	16,675,405	17,118,219	16,984,000	17,535,890
Asphalt Yield	1,073,368	1,118,607	1,214,946	1,366,261	1,265,605	1,370,316
Total Crude Processing Capacity MB/CD	45.0	45.0	45.0	46.9	47.9	48.8
Crude Charged by State/County						
Domestic/Bbls.						
a. California	7,626,344	7,486,426	9,819,799	11,507,503	10,482,928	8,971,339
b. Utah	942,856	981,480	2,300,358	3,437,592	4,260,660	4,200,313
Foreign/Bbls.						
a. Kuwait	4,642,346	3,880,101	2,000,859	1,227,527	974,757	2,005,225
b. Iran	—	—	722,405	390,444	—	—
c. Venezuela	3,013,732	2,437,000	—	491,402	307,979	696,872
d. Boliva	—	895,985	1,831,984	63,781	515,912	11,807
e. Indonesia	—	—	—	—	—	372,423
f. Columbia	—	—	—	—	441,764	1,277,911

Santa Fe Springs Refinery
WER/jan
2-08-72

*All figures for 1965 include the operations of Wilshire Oil Company of California during the year 1965 prior to its merger with Gulf Oil Corporation.

AFFIDAVIT OF R. W. CURTIS

State of California
County of Los Angeles—ss.

R. W. Curtis, being first duly sworn, deposes and says:

I am Regional Attorney for defendant Gulf Oil Corporation in the within action.

The foregoing answers to plaintiffs' interrogatories are true and correct to the best of my own knowledge.

Dated: February 18, 1972.

/s/ R. W. CURTIS
R. W. Curtis

[Jurat and Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 23, 1972]

RESPONSE OF DEFENDANT GULF OIL CORPORATION TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

Defendant Gulf Oil Corporation (hereinafter referred to as "Gulf") responds to "Requests For Admissions Filed Pursuant To The Order Of Court Dated December 30, 1971, Relating To The Issue Of Interstate Commerce And Whether The Alleged Conspiracy Was One Affecting Interstate Commerce," dated January 19, 1972, as follows:

* * * *

REQUEST FOR ADMISSION NO. 3:

That the Federal Government contributes a portion of the cost of construction of certain public highways.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 4:

That the basis of such Federal participation is the Federal Aid Highway Act (23 U.S.C., Sections 101 through 141).

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 5:

That under the Federal Aid Highway Act referred to hereinabove, the Federal Government assumes up to ninety percent (90%) of the highway construction costs (23 U.S.C. 120) upon

approval by the Secretary of Commerce of the plans and specifications submitted by the various state highway departments (23 U.S.C. Section 109).

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 6:

To qualify for contributions by the Federal Government the state must conform to standards set forth in the statute, such as vehicle weight and width limitations (23 U.S.C., Section 127), control of outdoor advertising (23 U.S.C., Section 131), creation of a highway safety program (23 U.S.C., Section 135), control of junk yards (23 U.S.C., Section 136).

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 7:

That each project is subject to the inspection and approval of the Secretary of Transportation and was formerly under the control of the Secretary of Commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 8:

That all wages paid for laborers and mechanics employed by contractors or subcontractors on roads funded by the Federal Aid

Highway Act is controlled by the Davis-Bacon Act (40 U.S.C., Section 276A) (23 U.S.C., Section 113).

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 9:

That small business enterprises are to be assisted by the Secretary insofar as feasible in obtaining contracts in order to encourage full and free competition under the Federal Aid Highway Act (23 U.S.C., Section 304).

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 10:

That any state declaring to avail itself of the provisions of the Federal Aid to Highway Act, (Title 23, U.S.C. 101 et seq.) shall have a highway department which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by the Act (23 U.S.C., Section 302).

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 11:

That the State of California has qualified to receive and does receive funds from the Federal Government pursuant to Title 23

U.S.C. Section 101 et seq., and assents specifically to the provisions of Title 23 of the United States Code relative to Federal aid and other cooperative highway work (Section 820, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 12:

That the State of California has apportioned ninety-eight and one-half percent (98½%) of the money received by it under the Federal Highway Act of 1950 for the improvement of county highways (Section 201, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 13:

That the plaintiff Copp, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C. Section 101 et seq.) is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 14:

That the defendant Sully-Miller, in order to perform work on the county roads funded by the United States Government under

the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION 14:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 15:

That the defendant Industrial, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the Executive Order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Without admitting the relevancy thereof, Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 16:

Attached hereto and made a part hereof are a group of documents labeled Exhibit "A", 1 through 11 respectively. Does Sully-Miller admit the documents so identified as "A" 1 through 11 are true and correct photostatic documents submitted by Sully-Miller on or about the date, February 2, 1970, reflecting the compliance by Sully-Miller to Executive Order 11246.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

This request is not addressed to Gulf.

REQUEST FOR ADMISSION NO. 17:

That the defendant Gulf owns all the outstanding stock of the defendant Industrial.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 18:

That Union Oil owns all the stock of the defendant Sully-Miller.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Gulf admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 19:

That the defendant Union is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

This request is not directed at Gulf.

REQUEST FOR ADMISSION NO. 20:

That the defendant Gulf is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Gulf admits that in some of its activities it is engaged in interstate commerce; denies that in other of its activities it is engaged in interstate commerce; and specifically denies that it was engaged in interstate commerce when it made sales of liquid asphalt to Industrial Asphalt in Los Angeles County.

REQUEST FOR ADMISSION NO. 21:

That the defendant Edgington is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

This request is not directed to Gulf.

REQUEST FOR ADMISSION NO. 22:

That the defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

This request is not directed to Gulf.

REQUEST FOR ADMISSION NO 23:

That the defendant Union ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

This request is not directed to Gulf.

REQUEST FOR ADMISSION NO. 24:

That the defendant Gulf ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Gulf denies that it ships hot asphalt oil produced by Gulf in California to other states of the United States or that it sells hot asphalt oil to customers located in other states.

Dated: February 18, 1972.

R. W. Curtis
F. E. Laymon
D. R. Arnett

By /s/ R. W. CURTIS
R. W. Curtis
Attorneys for Gulf Oil Corporation

[Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 23, 1972]

RESPONSE OF DEFENDANT INDUSTRIAL ASPHALT, INC. TO PLAINTIFFS' INTERROGATORIES

Industrial Asphalt, Inc. (hereinafter referred to as "Industrial") responds to Interrogatories Propounded By Plaintiff Copp With Reference To The Issue of Interstate Commerce dated January 19, 1972, as follows:

* * * *

INTERROGATORY NO. 17

With reference to the sale of liquid asphalt, identify for each year from 1958 to date, each company to whom you have sold liquid asphalt, setting forth by way of summary for each year the total amount of liquid asphalt sold to said individual company. (Listing, for example, the total amount of liquid asphalt sold by Gulf to Sully-Miller for the year 1964.)

RESPONSE TO INTERROGATORY NO. 17

The information sought by this interrogatory for the years 1965 through 1970 is set forth in Exhibit "A" attached hereto. Prior to 1965 Industrial did not engage in the business of selling liquid asphalt.

INTERROGATORY NO. 18

List for each year from 1958 to date the total amount of liquid asphalt purchased by your organization.

RESPONSE TO INTERROGATORY NO. 18

The information sought by this interrogatory for the years 1964 through 1970 is set forth in Exhibit "B" attached hereto.

To the extent that information is sought for a period preceding 1964 Industrial objects on the grounds that such information is irrelevant.

INTERROGATORY NO. 19

With reference to liquid asphalt purchases set forth hereinabove, state for each year from 1958 to date by volume the total amount of asphalt purchased, identifying the company from which said purchases were made. (For example, Industrial will please state the total amount of liquid asphalt purchased from Union for the year 1965.)

RESPONSE TO INTERROGATORY NO. 19

See Exhibit "B".

INTERROGATORY NO. 20

Set forth the geographical location and address of each and every hot plant owned by you now and for each year from 1958 until present.

INTERROGATORY NO. 21

With reference to each hot plant so identified in previous Interrogatory No. 20, please state after identifying said hot plant how said hot plant was obtained; from whom was said hot plant obtained and what was the method by which said hot plant was acquired.

INTERROGATORY NO. 22

For each hot plant so identified for each year in question identify and state by volume the total amount of asphalt sold by you outside the confines of the State of California.

INTERROGATORY NO. 23

With reference to each year from 1958 to the present, identify the total amount of asphalt sold in each county of the State of California. (For example, set forth for each year from 1958 to date the total amount of asphalt sold in Alpine County).

RESPONSE TO INTERROGATORIES NOS. 20, 21, 22 and 23

Without conceding the relevancy of any of the information sought by these interrogatories, Exhibit "C" attached hereto sets forth a list of the hot plants owned and operated by Industrial on September 15, 1971, the method by which and/or from whom such plants were acquired. Industrial does not maintain records of its sales of asphaltic concrete on a county by county basis. At no time has any of the asphaltic concrete produced at any of the hot plants owned and operated by Industrial in either California, Arizona or Nevada been sold or shipped outside the states in which the plants were located. The total sales of asphaltic concrete from all of the plants owned and operated by Industrial in the State of California and the total sales of asphaltic concrete from the plants operated in Arizona and Nevada for the years 1964-1970 are set forth as follows:

Year	California	Phoenix	Las Vegas
		(Figures in tons)	
1964	4,486,414	5,301	
1965	3,979,938	59,491	
1966	5,023,815	133,407	
1967	4,057,766	156,108	
1968	5,080,068	224,232	
1969	5,241,280	187,107	21,344
1970	5,198,453	277,377	91,583

Industrial objects to these interrogatories to the extent that they seek information not contained in Industrial's responses thereto on the ground that said interrogatories to that extent are irrelevant and beyond the scope of the Court's Order of December 30, 1971.

INTERROGATORY NO. 24

Is it your contention that your company is not involved in interstate commerce?

RESPONSE TO INTERROGATORY NO. 24

Industrial avers that in some of its activities it is engaged in interstate commerce, denies that in other of its activities it is engaged in interstate commerce and specifically denies that it is engaged in interstate commerce when it sells liquid asphalt or asphaltic concrete to its customers located in California or asphaltic concrete to its customers located in Nevada and Arizona.

INTERROGATORY NO. 25

If the response to the foregoing question is to the effect that you are not involved in interstate commerce, is it your contention that your company must not abide by Executive Order No. 11246, which is described as the Equal Employment Opportunity Program?

RESPONSE TO INTERROGATORY NO. 25

Industrial does not contend that it need not comply with Executive Order No. 11246.

INTERROGATORY NO. 26

Does your company comply with Executive Order No. 11246, as amended?

RESPONSE TO INTERROGATORY NO. 26

Yes.

INTERROGATORY NO. 27

Attached hereto and made a part hereof, marked Exhibit "B" is a letter bearing the date June 30, 1970, which purports to be

special instruction to bidders, prepared by the Board of Supervisors of the County of Los Angeles, State of California, under the direction of James S. Mize, Executive Officer and Clerk of the Board of Supervisors. Are you familiar with the requirements as set forth in Exhibit "B", and in this regard, does your company follow the policies as required by said instruction pursuant to Executive Order No. 11246, as amended?

RESPONSE TO INTERROGATORY NO. 27

Yes.

Dated: February 18, 1972.

R. W. Curtis
F. E. Laymon
D. R. Arnett

By /s/ R. W. CURTIS
R. W. Curtis

Attorneys for Defendant Industrial Asphalt, Inc.

Exhibit A

INDUSTRIAL ASPHALT
LIQUID ASPHALT SALES
(In Tons)

	1965	1966	1967
A-1 Paving & Grading	730.00	597.54	575.99
Ansco Construction Co.	0.00	0.00	0.00
Arizona Refining Co.	10,259.00	9,580.13	13,047.20
Asphalt Products Corp.	2,382.00	3,000.80	116.36
Asphalt Service Co.	0.00	0.00	0.00
Baker, James S. Co.	454.00	0.00	0.00
Bish Contracting Co.	128.00	0.00	0.00
Caliente, City of Nevada	0.00	0.00	102.10
California, State of	159.00	704.74	12.89
Cash Sales	151.00	688.13	284.88
Clark County Nevada	0.00	0.00	0.00
Clark County Road Dept.	15.00	3,909.30	2,360.39
Clyde, W. W. & Co.	0.00	0.00	0.00
Consumers Oil Co.	83.00	115.53	64.34
Cooley Brothers Co.	56.00	1,436.41	153.59
Defense Construction Supply	0.00	748.28	161.04
Douglas Oil Co.	2,600.00	1,789.55	1,577.73
Edgington Oil Refineries	1,958.00	13,484.11	4,726.39
Edgington Oil—Oxnard	43.00	913.10	0.00
Emmett, Robert Const.	0.00	0.00	520.81
Ferry Bros.	0.00	0.00	0.00
Fontana Paving Co.	556.00	0.00	0.00
Ford & Beck, Inc.	520.00	0.00	0.00
Gilmore & Page	5.00	50.86	31.75
Glazier, Leon	0.00	0.00	113.07
Golden, Kenneth H. Co.	20,012.00	436.25	0.00
Golden Bear Oil Co.	190.00	0.00	0.00
Gramel Co., Inc.	7,901.00	2,859.07	0.00
Griffith Co.	451.00	0.00	199.83
Helms, R. L.	39.00	0.00	5,066.34
Hew Construction	0.00	0.00	162.03
Imperial County	0.00	0.00	2,834.08
Industrial Asphalt Hot Plants	55,409.00	131,464.07	123,186.74
Industrial Asphalt—Sacramento	8,602.00	0.00	0.00
Ingram, R. W. & Sons	0.00	0.00	0.00
Isbell Construction	3,324.00	0.00	0.00
Kiewit, Peter & Sons	61.00	0.00	0.00
Las Vegas Paving Co.	617.00	383.58	176.78
Lincoln County Nevada	0.00	0.00	150.19
Loel, Dick	0.00	12.80	212.03
Los Angeles, City of	577.00	10.36	28.86
Los Angeles, County of	287.00	270.83	68.28

	1965	1966	1967
Matich Corporation	9,180.00	13,039.89	12,493.53
Merrett, James C.	161.00	101.71	0.00
Miller, D. J. & Son	395.00	0.00	0.00
Mineral County Nevada	0.00	737.66	0.00
Miscellaneous (Customers under 100 Tons)	942.19	1,437.64	2,041.02
Murphy Bros.	29.00	0.00	0.00
Nelson Bros.	0.00	183.65	0.00
Nevada State Div. of Hwys.	0.00	5,303.62	3,059.12
Newhall Refining Co.	2,067.00	2,466.09	2,106.02
Noble, R. J.	0.00	0.00	0.00
O'Brien Asphalt Maint.	5.00	268.45	419.29
Orange, County of Calif.	0.00	0.00	488.30
Parker, Charles T. Co.	482.00	4,062.58	7,872.73
RMK—BRJ	0.00	6,034.10	0.00
Raley, Wm. H. Co.	826.00	1,588.30	2,027.49
Reynolds Elect. & Eng. Co.	1,357.00	911.00	1,033.30
Riverside, County of Calif.	0.00	0.00	1,806.13
Rockwin Concrete Co.	0.00	302.60	0.00
Saint George, City of Utah	0.00	497.01	105.64
Santa Monica, City of	0.00	0.00	0.00
Schooley Brothers	0.00	373.72	333.20
Seal Black Co.	353.00	813.84	133.05
Sepick & Rogers Co.	223.00	0.00	0.00
Shirley Bros. Co.	0.00	7.10	145.34
South Coast Asphalt Products	0.00	3,290.86	0.00
Slaughter, Ralph	0.00	0.00	240.71
Southern Nevada Paving	32.00	67.01	884.44
Standard Materials	3,124.00	0.00	0.00
Stratton Brothers	0.00	0.00	264.95
Sully-Miller Const.	2,997.00	0.00	26.90
Transit Tank, Int.	22,722.81	0.00	0.00
Union Oil Co.	3,338.00	81.08	0.00
U.S. Army—San Francisco	0.00	0.00	0.00
U.S. Navy Purchasing	0.00	0.00	0.00
Utah, State of	2,435.00	2,875.52	1,487.54
Vernon Asphalt Materials	49.00	100.97	0.00
Vickrey, J. W.	142.00	0.00	0.00
Vinnell Corp.	1.00	0.00	0.00
Wells Cargo	9,327.00	8,921.98	11,050.15
Wells, Stewart	1,758.00	179.53	0.00
Westland, Duke	119.00	76.06	54.55
Wilshire Oil Co.	117.00	0.00	0.00
Womack Const. Co.	0.00	255.39	65.41
Yeager, E. L.	0.00	148.21	0.00
Young, L. A. & Sons	0.00	1,766.01	0.00
Yucca Valley Products	0.00	0.00	0.00
	179,751.00	228,376.02	204,072.50

INDUSTRIAL ASPHALT
LIQUID ASPHALT SALES
(In Tons)

	1968	1969	1970
A-1 Paving & Grading	144.90	1.35	—0—
Agnew Construction	331.21	539.40	575.50
Arizona Refining Co.	19,250.70	11,291.52	20,633.97
Asphalt Seal Coat Co.	191.16	40.18	—0—
Brown, C. M.	—0—	553.63	—0—
Caliente, Nevada, City of	27.05	—0—	—0—
California, State of	320.36	1,967.84	420.81
Cash Sales	410.20	455.32	162.32
Clark County Road Dept.	—0—	598.71	—0—
Consumers Oil Co.	108.25	15.46	—0—
Cooley Bros. Co.	860.76	—0—	—0—
Dana Co.	167.19	194.65	101.82
Dennis, V. R.	467.10	5,295.76	—0—
Diamond Construction	—0—	335.16	—0—
Douglas Oil Co.	1,199.36	3,156.55	1,722.99
Edgington Oil Refineries	4,842.81	948.59	888.23
Edgington Oil—Oxnard	570.72	708.91	592.60
Gilmore & Page	185.46	184.37	153.89
Glazier, Leon	49.82	24.59	—0—
Helms, R. L.	4,449.51	2,693.62	—0—
Imperial County	2,745.32	—0—	—0—
I-A Hot Plants	145,204.60	148,638.21	187,085.56
Kasler-Ball-Yeager	14,695.70	115.41	—0—
Las Vegas Paving Co.	2,950.28	707.41	—0—
W. H. Ledbetter	—0—	—0—	—0—
Las Vegas, City of	83.67	33.07	—0—
Lincoln County, Nevada	71.46	837.20	—0—
Loel, Dick	341.89	453.34	285.83
Los Angeles, City of	112.49	61.69	3.07
Los Angeles, County of	533.65	369.21	202.04
Matich Corp.	8,032.80	11,265.21	16,151.41
Mesa Construction	284.33	25.18	—0—
Mineral County, Nevada	—0—	625.96	—0—
Miscellaneous (Customers Under 100 Tons)	1,728.45	1,502.92	1,468.13
Nato Corp.	—0—	112.56	22.55
Nevada Rock & Sand	1,569.31	6,285.12	—0—
Nevada Div. of Hwys.	3,875.89	7,672.90	—0—
Newhall Refining Co.	11,503.92	—0—	2,884.07
O'Brien's Asph. Maint. (OBAM)	525.08	703.75	1,084.19
Orange County, Calif.	799.69	976.67	290.09
Parker, Chas. T. Co.	72.78	24.60	—0—
Polich-Benedict	—0—	—0—	282.53

	1968	1969	1970
Raley, W. H.	2,397.30	745.08	48.98
Reynolds Elect. & Eng. Co.	1,266.12	2,754.13	492.71
Riverside County, Calif.	6,875.62	3,602.63	—0—
St. George, Utah, City of	—0—	103.73	—0—
Schooley Paving	262.65	372.44	330.67
Seal Black Co.	38.76	17.93	6.04
Slaughter, Ralph	337.12	—0—	—0—
Slurry Seal	—0—	252.85	—0—
Southern Nevada Paving	106.10	83.91	—0—
Stratton Bros.	58.66	—0—	—0—
Tiffany Construction	—0—	242.39	—0—
Tomei Construction	—0—	208.16	—0—
Union Oil Co.	9.87	109.99	—0—
U. S. Marine Corps.	584.18	853.73	162.44
U. S. Navy Purchasing	5,104.01	39.13	—0—
Utah, State of	1,023.54	245.93	—0—
Weeshoff Construction	—0—	136.39	—0—
Wells Cargo	10,564.95	13,675.07	—0—
Westland, Duke	76.92	77.08	13.59
Womack Const. Co.	—0—	269.78	—0—
Total	257,413.67	233,206.37	236,066.03

Exhibit "B"

PURCHASES FROM OTHER REFINERS OR PRODUCERS OF ASPHALT

(Tons and Dollars)

Producer	Tons	Dollars
1964		
Arizona Refining Co.	286.70	$ 8,051.00
Atlantic-Richfield Co.	80,667.90	1,265,813.13
Douglas Oil Co.	11,394.65	247,626.58
Edgington Oil Refining	57,963.05	948,001.89
Edgington-Oxnard Refinery	8,313.83	124,709.46
Golden Bear Oil Co.	3,873.35	56,282.75
Newhall Refining Co.	10,571.16	121,260.71
Seaside Oil Co.	2,073.76	34,433.12
Shell Oil Co.	9,390.30	245,509.60
Union Oil Co.	14,672.87	337,977.45
United Asphalt Co.	22,743.92	389,713.59
Gulf Oil Co.	13,289.00	185,689.00
1965		
Arizona Refining Co.	3,103.85	84,582.69
Atlantic-Richfield Co.	44,237.70	649,742.75
Douglas Oil Co.	877.12	14,247.95
Edgington Oil Refining	49,654.43	727,005.49
Edgington-Oxnard Refinery	17,469.35	264,997.43
Golden Bear Oil Co.	15,892.85	262,182.82
Newhall Refining Co.	6,475.98	98,475.42
Shell Oil Co.	17,090.57	379,722.81
Union Oil Co.	9,702.99	202,564.91
United Asphalt Co.	6,922.64	11,439.22
Gulf Oil Co.	160,201.80	2,030,376.00
1966		
Arizona Refining Co.	6,474.32	181,987.43
Atlantic-Richfield Co.	15,223.81	225,190.95
Douglas Oil Co.	1,675.01	36,253.47
Edgington Oil Co.	56,118.83	742,900.56
Edgington Oxnard Refinery	14,196.77	211,310.76
Golden Bear Oil Co.	22,106.65	426,256.57
Newhall Refining Co.	2,458.99	36,012.11
Seaside Oil Co.	469.81	6,342.45
Shell Oil Co.	19,342.21	403,282.69
Suhuaro Petroleum Co.	453.91	12,732.98
Union Oil Co.	330.98	6,893.51
Gulf Oil Co.	225,322.30	2,666,811.00
1967		
Arizona Refining Co.	5,755.34	156,699.08
Atlantic-Richfield Co.	9,284.56	126,740.99
Chevron Asphalt Co.	54.93	741.56

Producer	Tons	Dollars
Douglas Oil Co.	253.67	$ 1,473.99
Edgington Oil Co.	37,689.55	524,844.64
Edgington-Oxnard Refinery	12,844.61	190,760.85
Golden Bear Oil Co.	12,948.12	279,042.31
Newhall Refining Co.	794.55	11,208.21
Shell Oil Co.	19,582.24	470,538.26
Suhuaro Petroleum Co.	2,684.38	70,696.19
Gulf Oil Co.	205,723.90	2,374,381.00
1968		
Arizona Refining Co.	6,443.50	164,804.47
Atlantic-Richfield Co.	2,103.12	29,545.58
Douglas Oil Co.	2,311.79	29,360.45
Edgington Oil Co.	61,385.10	860,338.91
Edgington-Oxnard Refinery	18,217.42	257,028.85
Golden Bear Oil Co.	16,432.47	320,001.75
Newhall Refining Co.	9,889.57	137,014.99
Shell Oil Co.	20,618.95	475,643.00
Suhuaro Petroleum Co.	6,168.69	167,069.80
Gulf Oil Co.	251,452.90	2,908,278.00
1969		
Arizona Refining Co.	5,393.52	125,450.00
Atlantic-Richfield Co.	1,367.83	17,752.22
Chevron Asphalt Co.	320.14	4,321.93
Douglas Oil Co.	2,037.53	30,624.09
Edgington Oil Co.	47,127.30	688,362.08
Edgington-Oxnard Refinery	20,218.65	286,705.40
Golden Bear Oil Co.	18,912.10	362,580.80
Newhall Refining Co.	12,472.42	168,393.21
Powerine Oil Co.	3,007.68	265,413.16
Shell Oil Co.	34,174.48	788,390.79
Suhuaro Petroleum Co.	26,568.24	124,930.72
San Joaquin Refining	526.27	8,842.32
Union Oil Co.	344.58	7,089.24
Gulf Oil Co.	257,642.00	3,085,725.00
1970		
Arizona Refining Co.	7,986.81	236,676.02
Atlantic-Richfield Co.	13.62	185.87
Douglas Oil Co.	7,122.86	161,503.21
Edgington Oil Co.	28,586.92	447,949.36
Edgington-Oxnard Refinery	16,111.64	262,555.62
Golden Bear Oil Co.	12,342.97	229,264.60
Newhall Refining Co.	7,014.40	102,131.77
Powerine Oil Co.	75,207.77	772,209.97
Shell Oil Co.	25,974.21	453,557.70
Sahuaro Petroleum Co.	7,202.96	209,038.11
San Joaquin Refining	5,482.63	88,056.94
Gulf Oil Co.	187,247.69	2,641,364.00

Exhibit "C"

LIST OF PLANTS PRESENTLY OWNED BY INDUSTRIAL ASPHALT
SEPTEMBER 15, 1971

Company Designation	Batch Capacity (in Tons)	Plant (Asset) Acquired From	Company Acquired From	Shut Down	Installed By IA
Irwindale	2			X	X
Irwindale	2				X
Irwindale	2				X
Claremont	2				X
Highland	3				X
Antelope Valley	3				X
Oro Grande	2				X
Stanton	2				X
Orange A	2			X	X
El Segundo	2½	Geo. Oswald Co.		X	
Corona	2	Transitmix Corp.		X	
Los Angeles	3		Sparks-Mundo		
Sanger	2½	Pollard Bros.		X	
Santa Ana	3				X
Southwest	1½		Southwest Paving		
Southwest	2		Southwest Paving		
Fremont	2½	Clements Const.			
Fremont	3½	Clements Const.			
Pleasanton	2	Clements Const.			
Oakland	2	Independent Const.			
Saticoy	2	Consolidated Rock			
Castaic	2½				X
Sun Valley	5				X
Saticoy	5				X
Wilmington	6				X
Stanton	5				X
Rivergrade	6				X
San Diego	2	Ken Golden Co.			
Lemoncove	2½				X
Rosefield	3				X
Portable	2				X
Portable	3				X
Phoenix	3				X
Santa Fe Springs	2½				X
Claremont	3½				X
Orange B	2	J. J. Swigart Co.			
Grass Valley	2½	Gravada Enterprises			
Stockton	2				X
Las Vegas	3				X
Colton	1½	Calco Materials		X	
Colton	3				X
Sanger	3				X
Irwindale	10				X
Sun Valley	10				

AFFIDAVIT OF R. W. CURTIS

State of California
County of Los Angeles—ss.

R. W. Curtis, being first duly sworn, deposes and says:

I am Regional Attorney for defendant Industrial Asphalt, Inc. in the within action.

The foregoing answers to plaintiffs' interrogatories are true and correct to the best of my own knowledge.

Dated: February 18, 1972.

/s/ R. W. CURTIS
R. W. Curtis

[Jurat and Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed February 23, 1972]

RESPONSE TO DEFENDANT INDUSTRIAL ASPHALT, INC., TO PLAINTIFFS' REQUESTS FOR ADMISSIONS

Defendant Industrial Asphalt, Inc. (hereinafter referred to as "Industrial") responds to "Requests For Admissions Filed Pursuant To The Order Of Court Dated December 30, 1971, Relating To The Issue Of Interstate Commerce And Whether The Alleged Conspiracy Was One Affecting Interstate Commerce," dated January 1972, as follows:

* * * *

REQUEST FOR ADMISSION NO. 3:

That the Federal Government contributes a portion of the cost of construction of certain public highways.

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 4:

That the basis of such Federal participation is the Federal Aid Highway Act (23 U.S.C., Section 101 through 141).

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 5:

That under the Federal Aid Highway Act referred to hereinabove, the Federal Government assumes up to ninety percent

(90%) of the highway construction costs (23 U.S.C. 120) upon approval by the Secretary of Commerce of the plans and specifications submitted by the various state highway departments (23 U.S.C. Section 109).

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 6:

To qualify for contributions by the Federal Government the state must conform to standards set forth in the statute, such as vehicle weight and width limitations (23 U.S.C., Section 127), control of outdoor advertising (23 U.S.C., Section 131), creation of a highway safety program (23 U.S.C. Section 135), control of junk yards (23 U.S.C., Section 136).

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 7:

That each project is subject to the inspection and approval of the Secretary of Transportation and was formerly under the control of the Secretary of Commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 8:

That all wages paid for laborers and mechanics employed by contractors or subcontractors on roads funded by the Federal Aid

Highway Act is controlled by the Davis-Bacon Act (40 U.S.C., Section 276A) (23 U.S.C., Section 113).

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 9:

That small business enterprises are to be assisted by the Secretary insofar as feasible in obtaining contracts in order to encourage full and free competition under the Federal Aid Highway Act (23 U.S.C., Section 304).

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 10:

That any state declaring to avail itself of the provisions of the Federal Aid to Highway Act, (Title 23, U.S.C. 101 et seq.) shall have a highway department which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by the Act (23 U.S.C. Section 302).

RESPONSE TO REQUEST FOR ADMISSION NO. 10:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 11:

That the State of California has qualified to receive and does receive funds from the Federal Government pursuant to Title 23 U.S.C. Section 101 et seq., and assents specifically to the provisions

of Title 23 of the United States Code relative to Federal aid and other cooperative highway work (Section 820, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 11:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 12:

That the State of California has apportioned ninety-eight and one-half percent (98½%) of the money received by it under the Federal Highway Act of 1950 for the improvement of county highways (Section 201, Streets and Highways Code of the State of California).

RESPONSE TO REQUEST FOR ADMISSION NO. 12:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 13:

That the plaintiff Copp, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C. Section 101 et seq.) is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 14:

That the defendant Sully-Miller, in order to perform work on the county roads funded by the United States Government under

the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the executed order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 14:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 15:

That the defendant Industrial, in order to perform work on county roads funded by the United States Government under the Federal Highway Aid Act (23 U.S.C., Section 101 et seq.), is required to comply with all the provisions of the Executive Order No. 11246, dated September 24, 1965.

RESPONSE TO REQUEST FOR ADMISSION NO. 15:

Without admitting the relevancy thereof, Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 16:

Attached hereto and made a part hereof are a group of documents labeled Exhibit "A", 1 through 11 respectively. Does SULLY-MILLER admit the documents so identified as "A" 1 through 11 are true and correct photostatic documents submitted by Sully-Miller on or about the date, February 2, 1970, reflecting the compliance by Sully-Miller to Executive Order 11246.

RESPONSE TO REQUEST FOR ADMISSION NO. 16:

This Request is not addressed to Industrial.

REQUEST FOR ADMISSION NO. 17:

That the defendant Gulf owns all the outstanding stock of the defendant Industrial.

RESPONSE TO REQUEST FOR ADMISSION NO. 17:

Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 18:

That Union Oil owns all the stock of the defendant Sully-Miller.

RESPONSE TO REQUEST FOR ADMISSION NO. 18:

Industrial admits that the matter stated in this request is true.

REQUEST FOR ADMISSION NO. 19:

That the defendant Union is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 19:

This request is not directed at Industrial.

REQUEST FOR ADMISSION NO. 20:

That the defendant Gulf is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 20:

Industrial admits that in some of its activities Gulf is engaged in interstate commerce, denies that in other of its activities Gulf is engaged in interstate commerce and specifically denies that Gulf was engaged in interstate commerce when it made sales of liquid asphalt to Industrial in Los Angeles County.

REQUEST FOR ADMISSION NO. 21:

That the defendant Edgington is engaged in interstate commerce.

RESPONSE TO REQUEST FOR ADMISSION NO. 21:

This request is not directed at Industrial.

REQUEST FOR ADMISSION NO. 22:

That the defendant Edgington ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 22:

This request is not directed at Industrial.

REQUEST FOR ADMISSSION NO. 23:

That the defendant Union ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 23:

This request is not directed at Industrial.

REQUEST FOR ADMISSION NO. 24:

That the defendant Gulf ships some of the hot asphalt oil produced by it to other states of the United States, and sells hot asphalt oil to customers located in other states.

RESPONSE TO REQUEST FOR ADMISSION NO. 24:

Industrial denies that defendant Gulf ships hot asphalt oil produced by Gulf in California to other states of the United States or that it sells hot asphalt oil to customers located in other states.

Dated: February 18, 1972.

R. W. Curtis
F. E. Laymon
D. R. Arnett

By /s/ R. W. CURTIS
R. W. Curtis

Attorneys for Industrial Asphalt, Inc.

[Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed March 13, 1972]

ANSWERS OF DEFENDANT EDGINGTON OIL COMPANY TO INTERROGATORIES PROPOUNDED BY PLAINTIFF COPP WITH REFERENCE TO THE ISSUE OF INTERSTATE COMMERCE:

Dated: January 19, 1972.

Defendant Edgington Oil Company (hereinafter called "Edgington"), a corporation, provides the following answers to Interrogatories Propounded to Edgington by plaintiff Copp, dated January 19, 1972, as follows:

* * * *

"INTERROGATORY NO. 10

With reference to the source of the crude oil which your company processes, state for each year from 1958 to date the source or (sic) said crude oil, and in said response set forth specifically:

A. The total amount of crude oil processed by your company within the State of California for each year in question. Set forth the number in terms of either gallons or barrels or the standard measurement which you may use at your refinery;

B. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was in the confines of the State of California.

C. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the origin of which was outside of the confines of the State of California.

D. Set forth in the measurement used by you the amount of oil refined for each year which is obtained by your company, the

origin of which was outside the confines of the continental United States."

ANSWER TO INTERROGATORY NO. 10

In an attempt to expedite and facilitate the discovery in these proceedings, Edgington will accommodate plaintiffs by answering these interrogatories to the extent that the information is readily available.

Edgington Oil objects to this interrogatory on three grounds. Firstly, the source of crude oil processed by Edgington is wholly irrelevant to the issue of interstate commerce. Furthermore, inasmuch as plaintiffs have failed to allege a cause of action for fraudulent concealment in his complaint, the four year statute of limitations makes much of the material sought by plaintiffs irrelevant. Secondly, plaintiffs are soliciting information from 1958, a date which precedes the 1960 through 1969 time period imposed by this Honorable Court for purposes of discovery.

For the period commencing January 1, 1961 through and including December 31, 1969, Edgington purchased its crude oil from the Signal Oil and Gas Company. For the period commencing 1958 through and including 1960, Edgington purchased its crude oil from the Richfield Oil Company.

A. In regards to the total amount of crude oil processed by Edgington within the State of California, Edgington has no records which reflect this information for years prior to 1964. In regards to years 1964 through and including 1969, the answer:

Year	Barrels
1964	2,400,472
1965	2,777,020
1966	2,917,694
1967	3,277,498
1968	3,514,443
1969	3,255,474

B. The answer to this subparagraph is the same as the answer to subparagraph A. of this interrogatory.

C. None.

D. None.

"INTERROGATORY NO. 11

State the location of each refinery owned by your company within the State of California, identifying the period of time said refinery has been in existence from the years 1958 to date.

A. With reference to the refineries identified herein, set forth and state the capacity of each refinery in terms of the total crude oil processed by said refinery for each year, from 1958 to date.

B. State for each refinery the total amount of petroleum products produced by each refinery from 1958 to date, including gasoline, kerosene, motor oil, and liquid asphalt production. (The list requested is by way of example only, and if any other petroleum products are produced, you will set forth each and every other petroleum product so produced including quantity thereof.)"

ANSWER TO INTERROGATORY NO. 11

Edgington objects to this interrogatory on two grounds. Firstly, the interrogatory is irrelevant inasmuch as it: (1) bears no relevance to the issue of interstate commerce; (2) seeks information beyond the four year statute of limitations; and (3) seeks information for products other than liquid asphalt which is the subject of the causes of action against Edgington. Secondly, plaintiffs are soliciting information from 1958, a date which precedes the 1960 through 1969 time period imposed by this Honorable Court for purposes of the discovery. In an attempt to expedite and facilitate the discovery of these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering these interrogatories to the extent that the information is readily available.

Edgington owns only one refinery, located at 2300 East Artesia Boulevard, Long Beach, California, and this refinery has been in existence since before 1958 to date.

A. The capacity of this refinery from 1958 to date is as follows:

Year	Rated Capacity (in barrels)
1958	7,000
1959	7,000
1960	7,000
1961	7,000
1962	9,000
1963	9,000
1964	16,000
1965	16,000
1966	16,000
1967	16,000
1968	16,000
1969	16,000

B. Edgington has no records which reflect the amount of actual asphalt produced by it for any years prior to 1964. For the fiscal years commencing 1964 through, and including, 1969, the answer to this subparagraph is as follows:

Year	Barrels
1964	1,078,865
1965	1,152,934
1966	1,318,930
1967	1,351,119
1968	1,391,744
1969	1,407,161

"INTERROGATORY NO. 12

For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed within the confiines of the State of California.

A. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confiines of the State of California.

B. For each of the petroleum products so identified in response to Interrogatory No. 11 hereinabove, state for each year in question the total volume of said product sold and distributed outside the confiines of the continental United States."

ANSWER TO INTERROGATORY NO. 12

Edgington objects to this interrogatory on two grounds. Firstly, the interrogatory is irrelevant inasmuch as it seeks information beyond the four year statute of limitations. Secondly, plaintiffs are soliciting information from 1958, a date which precedes the 1960 through 1969 imposed by this Honorable Court for purposes of discovery. In an attempt to expedite and facilitate the discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering these interrogatories to the extent that the information is readily available.

All of the asphalt produced by Edgington is sold and distributed within the confiines of the State of California, with the exception of the quantities set forth in Edgington's Answer to Interrogatory 15(C).

"INTERROGATORY NO. 13

With reference to all crude oil which you have hereinabove identified as its origin being outside the confines of the State of California, identify the means by which you received said oil including a description of the specific boat lines if said oil was received by boat, or the specific railroad lines if said oil was received by rail."

ANSWER TO INTERROGATORY NO. 13:

Edgington objects to this interrogatory as being irrelevant to the issue of interstate commerce. In an attempt to expedite and facilitate discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering this interrogatory.

This interrogatory is not applicable inasmuch as all of the crude oil products processed by Edgington has its origins within the confines of the State of California.

"INTERROGATORY NO. 14

With reference to all petroleum products shipped outside the confines of the State of California by you, identify the means by which you shipped said oil including a description of the specific railroad lines if said oil was shipped by rail."

ANSWER TO INTERROGATORY NO. 14

To the extent that the interrogatory seeks information for products other than asphalt, Edgington submits that the interrogatory is objectionable as irrelevant to the plaintiffs' causes of action. In an effort to expedite and facilitate discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering this interrogatory in regards to asphalt products.

All asphalt shipped outside the confines of the State of California by Edgington are shipped by rail and by truck and trailer. The specific railroads used are Union Pacific and Southern Pacific.

"INTERROGATORY NO. 15

With reference to liquid asphalt, set forth for each year from 1959 to the present, the total amount of liquid asphalt shipped to the states of:

A. Washington;
B. Oregon;
C. Nevada;
D. New Mexico."

ANSWER TO INTERROGATORY NO. 15

Edgington objects to this interrogatory on the ground that the information sought by the plaintiffs goes beyond the 1960 through 1969 time period for discovery imposed by this Court. In an attempt to expedite and facilitate discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering this interrogatory to the extent the information is readily available.

A. None.
B. None.
C.

Year	*Amount (Tons)*
1964	69
1965	1,436
1966	134

D. None.

"INTERROGATORY NO. 16

With reference to sales made within the State of California, set forth for the years 1958 to the present, the total amount of liquid asphalt sold in each county of the State of California."

ANSWER TO INTERROGATORY NO. 16

Edgington objects to this interrogatory on the ground that the information sought by the plaintiffs goes beyond the 1960 through 1969 time period for discovery imposed by this Court. In an attempt to expedite and facilitate discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accomodate plaintiffs by answering this interrogatory to the extent the information is readily available.

Edgington advises plaintiffs that the answer to this interrogatory can be obtained by plaintiffs from a review of Edgington's sales invoices, located at the offices of Edgington and available for inspection by plaintiffs.

"INTERROGATORY NO. 17

With reference to the sale of liquid asphalt, identify for each year from 1958 to date, each company to whom you have sold liquid asphalt, setting forth by way of summary for each year the total amount of liquid asphalt sold to said individual company. (Listing, for example, the total amount of liquid asphalt sold by Gulf to Sully-Miller for the year 1965)."

ANSWER TO INTERROGATORY NO. 17

Edgington objects to this interrogatory on the ground that the information sought by the plaintiffs goes beyond the 1960 through 1969 time period for discovery imposed by this Court. In an attempt to expedite and facilitate discovery in these proceedings, and for the purpose of these proceedings only, Edgington will accommodate plaintiffs by answering this interrogatory to the extent the information is readily available.

Edgington advises plaintiffs that it keeps no annual records summarizing sales to customers. Inasmuch as Edgington does have monthly reports which reflect this information, the answer to this interrogatory can be obtained from a review of Edgington's Asphalt Tonnage Reports, located at the offices of Edgington and available for inspection by plaintiffs.

DATED: This 10th day of February, 1972

GROSSMAN, SMALTZ, GRAVEN & PERRY

By /s/ DONALD C. SMALTZ
Donald C. Smaltz

Attorneys for Defendant
Edgington Oil Company

VERIFICATION—446 and 2015.5 C.C.P.

State of California
County of Los Angeles —ss.

The undersigned (being first duly sworn) says:

I am the President of Edgington Oil Company, a corporation organized and existing under the laws of California, which is a defendant in the above-entitled action, and I have been authorized to make this verification on its behalf. I have read the foregoing Answers of Defendant Edgington Oil Company to Interrogatories, etc., and I know the contents thereof; and that the same is true of my own knowledge, except as to matters which are therein stated upon my information or belief, and as to those matters I believe to be true.

/s/ RALPH EDGINGTON

[Jurat and Certificate of Service
omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Filed April 7, 1972]

MOTION OF DEFENDANTS GULF OIL CORPORATION, UNION OIL COMPANY OF CALIFORNIA, INDUSTRIAL ASPHALT, INC., AND EDGINGTON OIL COMPANY FOR PRETRIAL ORDER LIMITING THE ISSUES

and

MOTION OF DEFENDANT SULLY-MILLER CONTRACTING COMPANY FOR SUMMARY JUDGMENT

TO PLAINTIFFS AND TO THEIR ATTORNEYS, MESSRS. CORINBLIT AND SHAPERO:

Please Take Notice, hereby given, that on Tuesday, May 23, 1972, at 10:00 a.m., or as soon thereafter as counsel can be heard, in the courtroom of the Honorable Russell E. Smith, United States District Court, Missoula, Montana, or at such other time and place as the Court may hereafter designate, defendants Gulf Oil Corporation, Union Oil Company of California, Industrial Asphalt, Inc., and Edgington Oil Company will move the Court to enter a pretrial order, in the form attached hereto, limiting the issues for purposes of all further proceedings herein to the questions (a) whether said defendants, or any of them, contracted, combined, or conspired to restrain or monopolize interstate trade and commerce in the business of selling liquid asphalt, in violation of Section 1 or 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, and (b) if so, whether plaintiffs, or any of them, were injured in their businesses or properties by reason of any such violation; and

Please Take Further Notice, hereby given, that at the same time and place, defendant Sully-Miller Contracting Company

will move the Court to enter an order of summary judgment, in the form attached hereto, in favor of said defendant on all claims herein asserted against it by plaintiffs.

These motions will be made pursuant to R.C.P. Rules 16 and 56, will be based on all the files of this and the other coordinated cases, and will be made on the ground that the record now shows that, with the possible exception of those Sherman Act claims just mentioned, this Court lacks jurisdiction over the subject matter of this action, all as more particularly appears in the memorandum in support of motions, served and filed herewith.

DATED: April 7, 1972.

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Attorneys for Defendants Union Oil Company of California and Sully-Miller Contracting Company

By /s/ GEORGE A. CUMMING, JR.
George A. Cumming, Jr.
On behalf of all defendants

[Proposed forms of order and judgment follow]

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Lodged April 7, 1972]

[PROPOSED] PRETRIAL ORDER LIMITING THE ISSUES

Defendants Gulf Oil Corporation, Union Oil Company of California, Industrial Asphalt, Inc., and Edgington Oil Company having moved the Court for a pretrial order pursuant to R.C.P. Rule 16 (1), limiting the issues herein on the grounds that the Court lacks jurisdiction over the subject matter of various of the claims herein asserted by plaintiffs, and the motion having duly and regularly come on for hearing, all parties being represented at the hearing by their respective counsel, and the Court having considered the memoranda and arguments of counsel, and good cause appearing

It is Hereby Ordered as follows:

1. All discovery and further proceedings herein shall be limited to the following issues:

(a) Whether said defendants, or any of them, violated Sections 1 or 2 of the Sherman Act, and, if so,

(b) Whether and to what extent, if any, plaintiffs or any of them were injured in their businesses or properties by reason of said violations, if any.

2. No discovery or further proceedings shall be had herein with respect to any of the remaining claims herein asserted, *viz.:*

(a) Any claims that defendants, or any of them, violated the Robinson-Patman Act, 15 U.S.C. § 13(a), in connection with the marketing of liquid asphalt or in connection with the marketing of asphaltic concrete;

(b) Any claims that defendants, or any of them, violated Section 3 of the Clayton Act, 15 U.S.C. § 14, in connection with the marketing of asphaltic concrete;

(c) The claim that defendant Gulf Oil Corporation violated Section 7 of the Clayton Act, 15 U.S.C. § 18, by acquiring all the capital stock of defendant Industrial Asphalt, Inc.;

(d) The claim that defendant Union Oil Company of California violated Section 7 of the Clayton Act by acquiring all the capital stock of defendant Sully-Miller Contracting Company;

(e) Any claims that defendants, or any of them, violated Sections 1 or 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, in connection with the marketing of asphaltic concrete; or

(f) Any claims that defendants, or any of them, violated Section 16,720 of the California Business and Professions Code.

3. This order shall govern all further proceedings in this case until and unless modified or set aside by subsequent order of the Court, granted on motion of any party and for good cause shown.

Dated: ....., 1972.

.....

United States District Judge

United States District Court for the Northern District of California

[Title of case omitted in printing]

[Lodged April 7, 1972]

[PROPOSED] JUDGMENT OF DISMISSAL

Defendant Sully-Miller Contracting Company having moved the Court, pursuant to R.C.P. Rule 56, for summary judgment in its favor on the ground that the Court lacks jurisdictioin over the subject matter of all claims herein asserted by plaintiffs and each of them against said defendant, and the motion having duly and regularly come on for hearing, the parties being represented by their respective counsel, and the Court having considered the memoranda and arguments of counsel, and having found that there is no genuine issue of material fact and that said defendant is entitled to judgment as a matter of law,

It Is Hereby Ordered that the motion of defendant Sully-Miller Contracting Company for summary judgment shall be and it is hereby granted, and that plaintiffs shall take nothing against said defendant, defendant to have and recover its costs taxed in the sum of $.....

Dated: ....., 1972.

.....

United States District Judge

[Certificate of Service omitted in printing]

United States District Court for the Northern District of California

[Title of case omitted in printing]
[Filed May ' 1972]

AFFIDAVIT OF ERNEST A. COPP IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

County of Los Angeles
State of California—ss.

Now comes the affiant, Ernest A. Copp, who being first duly sworn, deposes and states as follows:

1. He is now and was at all times herein one of the plaintiffs in the above entitled cause.

2. He is now and was at all times herein one of the owners of Copp Paving Company, Inc. and Copp Equipment Company, Inc.

3. Affiant has been active in the asphalt paving business continuously since 1954. In the course of operating his asphalt paving business, his two companies, combined, purchase the approximate sum of $90,000.00 per year of liquid asphalt materials.

4. Affiant is familiar with the competitive conditions of the paving business, and based upon his knowledge of the industry, alleges that there are two companies, to wit, Sully-Miller Contracting Company and Industrial Asphalt, Inc., that control 75% of the total paving business in Southern California.

5. Affiant is informed and believes, and based upon said information and belief alleges that Industrial Asphalt, Inc. is a totally owned subsidiary of Gulf Oil Corporation, and that Sully-Miller Contracting Company is a totally owned subsidiary of Union Oil Company of California.

6. Defendant Industrial Asphalt, Inc. (hereinafter "Industrial"), pursuant to interrogatories propounded to said defendant, has answered said interrogatories under the date of February 18, 1972. In its response to said interrogatories, Industrial lists its

total liquid asphalt purchases for the years 1964, 1965, 1966, 1967, 1968, 1969, and 1970, providing the total tonnage purchased from each refining company and the dollar amount paid for the total tonnage purchased. (See Exhibit B to Industrial's response to plaintiffs' interrogatories.)

7. Affiant has performed the following mathematical calculations based upon said Exhibit B. First, he has divided the total dollar price paid to each refiner by the number of tons purchased from each refiner, thereby obtaining the price per ton paid. He has then entered on a copy of defendant's Exhibit B the average price per ton paid to each purchaser for each year in question. (See Exhibit "A" hereto, attached hereto, and made a part hereof by reference.) The average price paid to producers other than Gulf Oil Corporation was obtained by adding the tonnage purchased from all producers other than Gulf Oil Corporation to obtain a single figure, adding the total dollars paid to such other producers to obtain a single figure; and the total dollars paid to all producers other than Gulf Oil Corporation was then divided by the total tonnage purchased from all producers other than Gulf Oil Corporation.

The above computations reflect the following facts:

Year	Average Price Gulf Oil Corp.	Average Price Other Producers	Price Difference
1964	$13.97	$17.02	$3.05
1965	12.79	15.66	2.87
1966	11.83	16.48	4.65
1967	11.54	17.69	6.15
1968	11.56	17.00	5.44
1969	11.98	14.95	2.95
1970	14.10	15.34	1.24

Based upon the above analysis, it would appear that defendant Industrial is purchasing liquid asphalt from Gulf Oil Corporation at a figure consistently lower than the prices paid all other producers, and defendant Industrial therefore has a built-in competitive advantage over the plaintiffs Copp, or any other independent contractor as the result of said advantage.

8. Affiant was present when the depositions of the representatives of Sully-Miller Contracting Company (hereinafter "Sully-Miller") were taken and said representatives refused on advice of their attorneys to respond to any questions concerning prices. Sully-Miller has likewise refused to supply pricing information of the type supplied by Industrial for analysis by affiant. Because of said refusal of Sully-Miller and its representatives, affiant is unable to provide information to the Court with reference to the competitive advantage which Sully-Miller enjoys in the same manner as Industrial.

Affiant can state, of his own knowledge due to his long experience in the paving business, that he has bid on jobs many times and has failed to receive the right to construct and perform on such jobs, having been underbid by either Industrial or Sully-Miller, and that both Sully-Miller and Industrial have either lost money on those jobs, or have had the benefit of liquid asphalt prices substantially lower than those available to affiant and his companies, said prices being reflected in Industrial's own figures furnished in its Exhibit B (Exhibit "A" hereto).

Affiant can make this statement because: (1) his gravel costs are the same as the costs of his competitors; (2) his labor costs are the same as the labor costs of his competitors (in fact, employees in the pavement industry shift from one company to another, depending upon the needs of the company at the time); (3) his companies' plant uses the same equipment as that used by his competitors (defendants Industrial and Sully-Miller); and (4) the only variable is his cost of liquid asphalt.

/s/ ERNEST A. COPP
Ernest A. Copp

[Jurat omitted in printing]

[Exhibit A to affidavit follows]

Exhibit "A"

PURCHASES FROM OTHER REFINERS OR PRODUCERS OF ASPHALT
(Tons and Dollars)

Producer	Tons	Dollars	
1964			
Arizona Refining Co.	286.70	$ 8,051.00	$28.15
Atlantic-Richfield Co.	80,667.90	1,265,813.13	15.69
Douglas Oil Co.	11,394.65	247,626.58	21.73
Edgington Oil Refining	57,963.05	948,001.89	16.35
Edgington-Oxnard Refinery	8,313.83	124,709.46	15.00
Golden Bear Oil Co.	3,873.35	56,282.75	14.53
Newhall Refining Co.	10,571.16	121,260.71	11.71
Seaside Oil Co.	2,073.76	34,433.13	16.61
Shell Oil Co.	9,390.30	245,509.60	26.14
Union Oil Co.	14,672.87	337,977.45	23.04
United Asphalt Co.	22,743.92	389,713.59	17.31
Gulf Oil Co.	13,289.00	185,689.00	13.97
1965			
Arizona Refining Co.	3,103.85	84,582.69	$27.25
Atlantic-Richfield Co.	44,237.70	649,742.75	14.68
Douglas Oil Co.	877.12	14,247.95	16.24
Edgington Oil Refining	49,654.43	727,005.49	14.64
Edgington-Oxnard Refinery	17,469.35	264,997.43	15.16
Golden Bear Oil Co.	15,892.85	262,182.82	16.49
Newhall Refining Co.	6,475.98	98,475.42	15.20
Shell Oil Co.	17,090.57	379,722.81	22.21
Union Oil Co.	9,702.99	202,564.91	20.87
United Asphalt Co.	6,922.64	11,459.22	1.64
Gulf Oil Co.	160,201.80	2,050,376.00	11.79
1966			
Arizona Refining Co.	6,474.32	181,987.43	$28.11
Atlantic-Richfield Co.	15,223.81	225,190.95	14.79
Douglas Oil Co.	1,675.01	36,253.47	21.64
Edgington Oil Co.	56,118.83	742,900.56	13.23
Edgington-Oxnard Refinery	14,196.77	211,310.76	14.88
Golden Bear Oil Co.	22,106.65	426,256.57	19.28
Newhall Refining Co.	2,458.99	36,012.11	14.68
Seaside Oil Co.	469.81	6,342.45	13.50
Shell Oil Co.	19,342.21	403,282.69	20.85
Suhuaro Petroleum Co.	453.91	12,732.98	26.31
Union Oil Co.	330.98	6,893.51	20.83
Gulf Oil Co.	225,322.30	2,666,811.00	11.83

Producer	Tons	Dollars	
1967			
Arizona Refining Co.	5,755.34	$ 156,699.08	$27.22
Atlantic-Richfield Co.	9,284.56	126,740.99	13.65
Chevron Asphalt Co.	54.93	741.56	13.72
Douglas Oil Co.	253.67	1,473.99	5.82
Edgington Oil Co.	37,689.35	524,841.64	13.92
Edgington-Oxnard Refinery	12,844.61	190,760.85	14.85
Golden Bear Oil Co.	12,948.12	279,042.31	21.55
Newhall Refining Co.	794.55	11,208.21	14.11
Shell Oil Co.	19,582.24	470,538.26	24.02
Suhuaro Petroleum Co.	2,684.38	70,696.19	26.33
Gulf Oil Co.	205,723.90	2,374,381.00	11.54
1968			
Arizona Refining Co.	6,443.50	164,804.47	$25.57
Atlantic-Richfield Co.	2,103.12	29,545.58	14.04
Douglas Oil Co.	2,311.79	29,360.45	12.70
Edgington Oil Co.	61,385.10	860,338.91	14.01
Edgington-Oxnard Refinery	18,217.42	257,028.85	14.10
Golden Bear Oil Co.	16,432.47	320,001.75	19.47
Newhall Refining Co.	9,889.57	137,014.99	13.85
Shell Oil Co.	20,618.95	475,643.00	23.06
Suhuaro Petroleum Co.	6,168.69	167,069.80	27.08
Gulf Oil Co.	251,452.90	2,908,278.00	11.56
1969			
Arizona Refining Co.	5,393.52	125,450.00	$23.26
Atlantic-Richfield Co.	1,367.83	17,752.22	12.98
Chevron Asphalt Co.	320.14	4,321.93	13.50
Douglas Oil Co.	2,037.53	30,624.09	15.03
Edgington Oil Co.	47,127.30	688,362.08	14.60
Edgington-Oxnard Refinery	20,218.65	286,705.40	14.18
Golden Bear Oil Co.	18,912.10	362,580.80	19.17
Newhall Refining Co.	12,472.42	168,393.21	13.50
Powerine Oil Co.	3,007.68	265,413.16	88.26
Shell Oil Co.	34,174.48	788,390.79	23.06
Suhuaro Petroleum Co.	26,568.24	124,950.72	4.03
San Joaquin Refining	526.27	8,842.32	16.80
Union Oil Co.	344.58	7,089.24	20.60
Gulf Oil Co.	257,642.00	3,085,725.00	11.98
1970			
Arizona Refining Co.	7,986.81	236,676.02	$29.63
Atlantic-Richfield Co.	13.62	185.87	14.23
Douglas Oil Co.	7,122.86	161,303.21	22.67
Edgington Oil Co.	28,586.92	447,949.36	15.67
Edgington-Oxnard Refinery	16,111.64	262,555.62	16.29
Golden Bear Oil Co.	12,342.97	229,264.60	18.57
Newhall Refining Co.	7,014.40	102,131.77	14.56
Powerine Oil Co.	75,207.77	772,209.97	10.02
Shell Oil Co.	25,974.21	453,357.70	17.46
Sahuaro Petroleum Co.	7,202.96	209,038.11	29.02
San Joaquin Refining	5,482.63	88,036.94	16.06
Gulf Oil Co.	187,247.69	2,641,364.00	14.10

[Certificate of Service omitted in printing]

The order of the United States District Court for the Northern District of California, filed May 31, 1972, in *In re Coordinated Pretrial Proceedings in Western Liquid Asphalt Cases, Copp Paving Company, Inc., et al.*, Plaintiffs, v. *Gulf Oil Company, et al.*, Defendants, No. C-71-608 therein, is printed as Appendix A to the Petition for Writ of Certiorari in this cause, and is incorporated herein by reference.

No. 72-2152

In the United States Court of Appeals for the Ninth Circuit

(Filed September 26, 1972)

In Re Coordinated Pre-Trial Proceedings
In
Western Liquid Asphalt Cases

Copp Paving Company, Inc.: Copp Equipment Company, Inc.; and Ernest A. Copp,
Appellants,

vs.

Gulf Oil Company: Union Oil Company of California: Industrial Asphalt, Inc.; Sully-Miller Contracting Company; and Edgington Oil Company,
Respondents.

APPELLANTS' OPENING BRIEF

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(213) 380-4200
Attorneys for Appellants

[Text of Opening Brief not designated]

[Appendix A and Appendix B to Opening Brief follow]

[App. A to Appellants' Opening Brief]

MINERAL INDUSTRY SURVEYS

U.S. Dept. of the Interior,

Bureau of Mines

[Masthead]

SHIPMENTS OF ASPHALT IN 1967

Petroleum Asphalt:

Domestic shipments of asphalt and asphaltic products in 1967 amounted to 25,802,667 short tons, 2.4 percent less than the 26,437,603 short tons shipped in 1966. A marginal decline from the 1966 level was reflected in road oil shipments of 1,033,437 short tons in 1967, according to the Bureau of Mines, United States Department of the Interior.

In 1967, asphalt for paving declined 4.0 percent from the previous year, due mainly to the decrease in road construction. In 1967, asphalt for paving accounted for 73.1 percent of total domestic shipments followed by roofing and miscellaneous use with 15.4 and 11.5 percent, respectively.

Shipments of asphaltic cements and fluxes amounted to 19,503,551 short tons or 75.6 percent of the asphalt shipments in 1967. Emulsified and cutback asphalts accounted for the remaining 24.4 percent.

Native Asphalt:

Gilsonite, bituminous limestone and sandstone shipments in 1967 totaled 1,866,666 short tons valued at $8,136,000.

Petroleum asphalt imported in 1967, including natural, totaled 1,172,000 short tons, 5.6 percent more than the 1,110,000 short tons imported in 1966. Exports in 1967 were 77,000 short tons, 11.5 percent less than the calendar year of 1966.

Prepared by James M. Foley, Mineral Specialist, June 11, 1968, Code 703-557-4651

Table 1.—Shipments of petroleum asphalt for consumption in the United States, by type and principal use[1]

(Short tons)

	1963	1964	1965	1966	1967
United States, total	22,647,821	24,045,850	25,027,723	26,437,603	25,802,667
By type:					
Asphalt cements and fluxes	16,102,940	17,856,682	18,519,011	19,603,749	19,503,551
Emulsified asphalts	1,920,198	1,832,389	2,080,876	2,266,825	2,176,194
Cutback asphalts	4,624,683	4,356,789	4,427,836	4,567,029	4,122,922
By principal use:					
Paving products	16,947,389	17,366,521	18,441,367	19,648,172	18,866,855
Roofing products	3,821,281	4,216,846	4,030,873	3,991,764	3,966,862
All other products	1,879,151	2,462,493	2,555,483	2,797,667	2,968,950

1. Excludes domestic bituminous limestone and sandstone, gilsonite and road oil.

Table 2.--Shipments of petroleum-asphalt paving products for consumption in the United States, by PAD districts and States

(Short tons)

District and State	Asphalt cements		Cutback asphalts		Emulsified asphalts		Total	
	1966	1967	1966	1967	1966	1967	1966	1967
District 1:								
Connecticut	152,167	138,769	38,968	28,056	3,414	4,291	194,549	171,116
Delaware	29,768	19,434	2,048	2,418	782	691	32,598	22,543
Florida	433,440	475,252	91,825	82,387	50,066	47,923	595,331	605,562
Georgia	347,326	377,170	101,485	104,680	42,252	41,147	491,063	522,997
Maine	82,992	75,862	66,769	62,077	10,533	8,101	160,294	146,040
Maryland and District of Columbia	310,190	308,269	75,672	74,888	76,921	78,087	462,783	461,204
Massachusetts	314,420	327,845	52,934	55,662	236	323	367,580	383,830
New Hampshire	47,931	50,693	49,397	22,151	26	81	97,354	72,925
New Jersey	384,326	401,322	93,034	73,337	25,897	24,356	503,255	499,015
New York	689,750	617,432	369,767	344,344	261,611	140,179	1,301,128	1,002,155
North Carolina	336,467	372,027	77,084	72,672	113,969	121,558	527,502	566,257
Pennsylvania	525,644	600,311	190,031	200,354	83,136	87,980	798,811	888,645
Rhode Island	122,159	103,773	29,123	12,564	394	824	151,676	117,161
South Carolina	213,129	220,269	22,125	21,706	61,975	56,874	297,229	298,849
Vermont	41,186	31,737	20,484	25,449	983	423	62,653	57,609
Virginia	350,848	282,926	103,800	96,390	48,166	45,412	502,812	424,728
West Virginia	59,249	66,381	29,764	27,808	16,843	3,331	101,856	97,520
Total	4,637,790	4,467,454	1,294,502	1,207,143	797,180	663,561	6,349,472	6,338,158
District 2:								
Illinois	434,668	334,998	223,768	220,748	30,832	33,542	689,268	589,288
Indiana	274,596	297,213	153,363	163,444	209,993	207,273	637,932	667,930
Iowa	344,695	337,619	98,337	88,552	45,803	37,611	490,833	463,782
Kansas	275,074	223,900	237,434	183,357	18,036	22,561	530,544	429,818
Kentucky	235,421	259,136	70,289	78,087	83,829	105,067	389,539	442,290
Michigan	333,440	347,362	47,157	47,951	74,390	77,891	434,987	473,204
Minnesota	377,764	269,552	189,730	132,550	38,991	36,889	606,487	438,991
Missouri	217,088	224,040	361,408	297,120	7,170	5,828	585,666	526,988
Nebraska	69,554	58,415	65,677	43,858	25	584	127,036	102,857
North Dakota	96,953	103,708	45,672	55,840	15,127	85,417	157,552	244,965
Ohio	470,258	503,675	367,200	347,139	137,343	145,402	974,701	996,216
Oklahoma	341,800	314,130	195,492	171,034	1,562	4,308	538,054	489,472
South Dakota	62,634	56,488	51,305	56,373	2,867	4,964	116,808	117,825
Tennessee	548,225	394,118	65,640	38,083	155,474	136,349	749,339	568,750
Wisconsin	238,099	274,699	123,793	101,234	12,610	11,206	374,502	387,137
Total	4,215,451	3,999,253	2,273,865	2,025,390	833,932	914,690	7,323,248	6,939,333
District 3:								
Alabama	215,185	228,005	45,093	38,313	89,864	100,484	350,142	366,800
Arkansas	83,454	112,618	65,737	66,201	41,361	43,084	190,572	221,703
Louisiana	178,737	175,228	38,537	21,927	41,679	54,243	258,933	251,398
Mississippi	173,119	240,226	4,436	6,856	45,822	15,370	225,377	262,448
New Mexico	149,044	136,633	73,932	64,823	4,491	9,974	227,467	211,432
Texas	799,133	826,944	178,925	201,270	42,925	43,578	1,019,982	1,069,792
Total	1,398,671	1,717,650	410,660	399,390	266,142	266,733	2,253,493	2,383,573
District 4:								
Colorado	196,893	220,421	56,822	41,784	3,807	5,960	257,522	268,165
Idaho	73,631	93,752	44,220	40,561	4,344	6,909	122,197	101,222
Montana	168,106	134,368	61,590	48,432	6,426	13,432	174,120	186,452
Utah	169,529	139,742	30,062	33,870	20	348	199,596	173,780
Wyoming	71,262	68,909	38,717	29,387	-	249	109,979	98,545
Total	617,419	607,612	231,396	194,034	14,599	26,898	863,414	828,364
District 5:								
Alaska	11,653	16,254	30,735	4,536	4,831	2,731	47,219	23,521
Arizona	152,755	149,200	25,343	45,503	65,877	48,967	243,977	259,670
California	1,260,019	1,132,309	148,145	113,897	131,840	116,813	1,520,004	1,363,019
Hawaii	40,145	32,259	2,564	2,767	663	421	43,374	35,447
Nevada	92,906	98,094	18,667	20,076	5,372	3,970	116,925	122,142
Oregon	253,196	181,713	38,787	39,284	39,393	30,018	331,296	241,014
Washington	255,853	236,940	86,461	80,882	15,436	16,792	355,750	332,614
Total	2,066,527	1,862,770	348,604	296,945	263,412	217,712	2,658,545	2,377,427
Total United States	12,905,858	12,654,739	4,567,029	4,122,922	2,175,285	2,089,594	19,648,172	18,866,855

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Table 3.--Shipments of petroleum-asphalt roofing products for consumption in the United States, by PAD districts and States

(Short tons)

District and State	Asphalt cements and fluxes		Emulsified asphalts		Total	
	1966	1967	1966	1967	1966	1967
District 1:						
Connecticut	2,539	2,778	2	-	2,541	2,778
Delaware	81,210	91,861	-	-	81,210	91,861
Florida	109,826	130,536	-	3	109,826	130,539
Georgia	157,311	148,507	1	11	157,312	148,518
Maine	-	145	-	-	-	145
Maryland and District of Columbia	75,427	80,581	26	97	75,453	80,678
Massachusetts	73,845	89,648	-	2	73,845	89,650
New Hampshire	80	-	-	-	80	-
New Jersey	289,770	240,597	31	2	289,801	240,599
New York	21,072	19,665	32	-	21,104	19,665
North Carolina	44,433	46,477	3	-	44,436	46,477
Pennsylvania	248,915	261,821	148	238	249,063	262,059
Rhode Island	5,870	10,241	-	-	5,870	10,241
South Carolina	64,677	64,583	11	35	64,688	64,618
Vermont	-	1	-	-	-	1
Virginia	9,347	10,522	2	-	9,349	10,522
West Virginia	37,971	1,031	-	-	37,971	1,031
Total	1,222,293	1,198,994	256	388	1,222,549	1,199,382
District 2:						
Illinois	629,140	486,871	-	-	629,140	486,871
Indiana	67,796	136,419	-	-	67,796	136,419
Iowa	4,664	2,704	-	-	4,664	2,704
Kansas	22,276	21,839	-	-	22,276	21,839
Kentucky	6,510	9,588	1	-	6,511	9,588
Michigan	93,540	85,988	4	-	93,544	85,988
Minnesota	130,726	133,698	-	-	130,726	133,698
Missouri	205,533	218,643	229	-	205,762	218,643
Nebraska	6,201	5,410	-	-	6,201	5,410
North Dakota	2,846	3,159	-	-	2,846	3,159
Ohio	227,028	199,148	150	22	227,178	199,170
Oklahoma	49,565	85,248	-	-	49,565	85,248
South Dakota	3,071	2,613	-	-	3,071	2,613
Tennessee	49,450	45,395	-	-	49,450	45,395
Wisconsin	9,014	11,165	-	-	9,014	11,165
Total	1,507,360	1,447,888	384	22	1,507,744	1,447,910
District 3:						
Alabama	153,608	158,582	181	189	153,789	158,771
Arkansas	114,471	113,604	-	-	114,471	113,604
Louisiana	110,104	119,407	-	18	110,104	119,425
Mississippi	14,546	11,528	-	-	14,546	11,528
New Mexico	2,927	7,540	-	-	2,927	7,540
Texas	323,455	337,348	15	17	323,470	337,365
Total	719,111	748,009	196	224	719,307	748,233
District 4:						
Colorado	43,176	42,504	-	5	43,176	42,509
Idaho	2,855	3,614	-	-	2,855	3,414
Montana	2,800	3,200	-	-	2,800	3,200
Utah	17,351	15,872	-	152	17,351	16,024
Wyoming	991	1,028	-	-	991	1,028
Total	67,173	66,018	-	157	67,173	66,175
District 5:						
Alaska	732	645	-	-	732	645
Arizona	244	111	6	-	250	111
California	388,880	418,652	272	233	389,152	418,885
Hawaii	7,247	5,625	31	2	7,278	5,627
Nevada	1,649	1,182	-	1	1,649	1,183
Oregon	39,199	38,602	26	3	39,225	38,605
Washington	36,616	40,007	89	99	36,705	40,106
Total	474,567	504,824	424	338	474,991	505,162
Total United States	3,990,504	3,965,733	1,260	1,129	3,991,764	3,966,862

Table 4.--Shipments of all other petroleum-asphalt products for consumption in the United States, by P&D districts and States

(Short tons)

District and State	Asphalt cements and fluxes		Emulsified asphalts		Total	
	1966	1967	1966	1967	1966	1967
District 1:						
Connecticut	36,971	33,574	777	574	37,748	34,148
Delaware	3,529	1,090	49	24	3,578	1,114
Florida	86,125	80,667	904	853	87,029	81,520
Georgia	120,954	124,463	591	910	121,545	125,373
Maine	2,537	2,153	182	228	2,719	2,381
Maryland and District of Columbia	41,221	45,573	4,327	1,486	45,548	47,059
Massachusetts	82,669	77,315	2,151	2,306	84,820	79,621
New Hampshire	110	15	183	159	293	174
New Jersey	251,965	269,707	1,325	931	253,290	270,638
New York	32,075	40,144	2,958	3,166	35,033	43,310
North Carolina	68,999	67,664	1,811	1,982	70,810	69,646
Pennsylvania	103,597	94,657	5,983	6,399	109,580	101,056
Rhode Island	5,917	9,032	328	298	6,245	9,330
South Carolina	3,536	2,099	13,930	14,000	17,466	16,099
Vermont	909	392	56	29	965	421
Virginia	9,538	13,434	1,756	1,723	11,294	15,157
West Virginia	5,786	540	113	145	5,899	685
Total	856,438	862,519	37,424	35,213	893,862	897,732
District 2:						
Illinois	640,088	809,817	7,997	8,954	648,085	818,771
Indiana	127,541	89,592	619	712	128,160	90,304
Iowa	4,048	5,876	2,704	2,185	6,752	8,061
Kansas	11,015	10,310	39	15	11,054	10,325
Kentucky	18,435	14,600	192	497	18,627	15,097
Michigan	54,515	44,212	3,254	3,857	57,769	48,069
Minnesota	42,352	89,821	836	714	43,188	90,535
Missouri	73,882	62,358	2,070	2,265	75,952	64,623
Nebraska	3,542	5,477	122	111	3,664	5,588
North Dakota	622	636	98	7	720	643
Ohio	187,761	165,466	8,686	8,163	196,447	173,629
Oklahoma	33,963	37,722	68	13	34,031	37,735
South Dakota	1,270	2,387	1	-	1,271	2,387
Tennessee	4,525	41,282	328	215	4,853	41,497
Wisconsin	34,906	42,268	2,191	2,283	37,097	44,551
Total	1,238,465	1,421,824	29,205	29,991	1,267,670	1,451,815
District 3:						
Alabama	12,986	13,902	1,066	881	14,052	14,783
Arkansas	26,643	14,807	118	221	26,761	15,028
Louisiana	93,557	90,254	485	843	94,042	91,097
Mississippi	12,385	13,750	368	304	12,753	14,054
New Mexico	892	866	31	105	923	971
Texas	285,101	281,827	5,690	5,995	270,791	287,822
Total	411,566	415,406	7,758	8,349	419,324	423,755
District 4:						
Colorado	2,775	2,890	16	21	2,791	2,911
Idaho	354	199	10	26	364	225
Montana	54	97	9	1	63	98
Utah	4,840	4,792	6	10	4,846	4,802
Wyoming	930	317	1	-	931	317
Total	8,953	8,295	42	58	8,995	8,353
District 5:						
Alaska	849	508	41	2	890	510
Arizona	2,355	2,234	423	429	2,778	2,663
California	118,183	104,157	10,042	9,353	128,225	113,510
Hawaii	49	59	178	154	227	213
Nevada	517	498	56	90	573	588
Oregon	49,394	48,922	2,627	1,155	52,221	50,077
Washington	20,418	19,057	2,484	677	22,902	19,734
Total	191,965	175,435	15,851	11,860	207,816	187,295
Total United States	2,707,387	2,883,479	90,280	85,471	2,797,667	2,968,950

Table 5.--Shipments of petroleum-asphalt and road oil for consumption in the United States, by PAD districts and States

(Short tons)

District and State	Asphalt					Road oil	
	1967						
	Cement and fluxes	Emulsified	Cutback	Total	1966 total	1967 total	1966 total
District 1:							
Connecticut	175,121	6,865	28,056	208,042	234,838	-	-
Delaware	112,387	715	2,418	115,520	117,386	-	-
Florida	686,455	48,779	82,387	817,621	792,186	1,100	-
Georgia	650,140	42,048	104,680	796,888	769,920	-	-
Maine	78,160	8,329	62,077	148,566	163,013	-	-
Maryland and District of Columbia	436,403	29,650	74,888	540,941	583,784	-	159
Massachusetts	494,808	2,631	55,662	553,101	526,265	-	-
New Hampshire	50,700	240	22,151	73,099	97,727	-	-
New Jersey	911,624	25,289	73,337	1,010,252	1,066,346	390	1,016
New York	672,241	143,345	244,544	1,065,130	1,257,265	-	163
North Carolina	486,168	123,540	72,672	682,380	662,748	1,060	887
Pennsylvania	956,789	94,617	200,354	1,251,760	1,157,254	6,496	4,479
Rhode Island	123,066	1,122	12,544	136,732	163,791	-	-
South Carolina	286,951	70,909	21,706	379,566	379,383	-	-
Vermont	32,130	452	25,449	58,031	63,818	-	-
Virginia	306,882	47,135	96,390	450,407	523,455	-	18
West Virginia	65,952	5,476	27,808	99,236	149,726	-	330
Total 1967	6,528,667	609,162	1,307,143	8,435,272	-	7,034	-
Total 1966	6,536,521	834,840	1,296,302	-	8,665,883	-	7,253
District 2:							
Illinois	1,431,686	42,496	220,748	1,894,930	1,960,493	200,195	155,949
Indiana	523,226	207,985	163,444	894,653	833,888	5,462	9,528
Iowa	340,199	39,596	88,532	474,367	502,249	15,460	13,779
Kansas	236,849	22,376	183,257	441,982	503,874	216	125
Kentucky	283,336	105,566	78,087	466,975	414,477	449	10,036
Michigan	677,562	81,748	47,991	807,301	886,390	10,485	9,380
Minnesota	493,071	37,403	132,350	663,224	680,381	16,760	26,846
Missouri	505,861	8,093	297,120	810,294	867,390	91,532	49,234
Nebraska	69,302	695	43,858	113,855	136,921	3,937	2,954
North Dakota	107,503	85,436	55,860	248,767	141,118	18,784	15,584
Ohio	848,289	153,587	367,139	1,369,015	1,398,326	9,510	9,907
Oklahoma	437,100	4,321	171,034	612,455	621,650	18,518	22,585
South Dakota	61,488	6,966	54,373	122,825	121,150	14,568	20,788
Tennessee	480,995	136,544	38,883	655,662	803,642	52	-
Wisconsin	328,132	13,487	101,256	442,873	420,613	119,873	156,996
Total 1967	6,868,965	964,703	2,025,390	9,859,058	-	528,218	-
Total 1966	6,961,276	863,341	2,273,845	-	10,098,462	-	501,774
District 3:							
Alabama	488,487	101,354	38,313	548,354	517,983	26	-
Arkansas	240,829	43,395	66,201	350,335	331,806	706	981
Louisiana	386,889	55,184	21,927	463,920	453,099	1,170	1,056
Mississippi	265,592	15,674	6,854	288,030	232,676	-	-
New Mexico	145,879	10,879	64,825	219,583	291,317	3,682	8,980
Texas	1,444,119	49,290	208,279	1,696,979	1,681,263	32,338	47,672
Total 1967	2,889,895	275,396	399,990	3,323,341	-	37,922	-
Total 1966	2,899,348	274,996	418,688	-	3,592,126	-	57,912
District 4:							
Colorado	269,815	5,986	41,784	317,585	303,489	23,184	16,325
Idaho	97,385	6,933	40,581	104,881	125,416	15,665	6,739
Montana	127,865	13,633	48,452	189,730	176,983	16,798	11,583
Utah	160,426	510	33,870	194,806	221,793	11,973	12,668
Wyoming	70,234	269	29,387	99,890	111,981	9,406	6,792
Total 1967	681,725	27,113	194,054	902,892	-	73,026	-
Total 1966	693,365	36,661	231,396	-	939,582	-	54,041
District 5:							
Alaska	17,407	2,733	4,536	24,676	48,861	-	63
Arizona	167,545	49,396	45,503	262,444	267,905	99,690	96,367
California	1,659,118	126,299	113,897	1,899,314	2,037,381	211,125	262,844
Hawaii	37,963	577	2,747	41,287	50,879	217	218
Nevada	99,776	4,981	20,076	123,913	119,147	17,711	21,833
Oregon	269,236	31,176	29,386	329,698	422,742	21,877	13,560
Washington	290,854	15,348	80,882	392,454	413,337	14,649	10,871
Total 1967	2,543,829	270,910	296,963	3,009,884	-	365,269	-
Total 1966	2,713,859	279,687	368,606	-	3,361,152	-	423,956
Total United States 1967	19,503,551	2,176,144	4,122,922	25,802,667	-	1,033,432	-
Total United States 1966	19,603,349	2,306,825	4,567,839	-	26,637,603	-	1,044,935

[App. B to Appellants' Opening Brief]

MINERAL INDUSTRY SURVEYS

U.S. Dept. of the Interior,

Bureau of Mines

[Masthead]

SHIPMENTS OF ASPHALT IN 1968

Petroleum Asphalt:

Domestic shipments of asphalt and asphaltic products in 1968 amounted to 28,379,354 short tons, 10.0 percent above the 25,802,667 short tons shipped in 1967. Shipments of road oil in 1968 totaled 1,153,677 short tons, an 11.6 percent increase over the total shipments in 1967, according to the Bureau of Mines, United States Department of the Interior.

In 1968, asphalt for paving increased 9.7 percent over the previous year. Asphalt for paving accounted for 72.9 percent of total domestic shipments followed by roofing and miscellaneous use with 16.8 and 10.3 percent, respectively.

Shipments of asphaltic cements and fluxes amounted to 21,855,319 short tons or 77.0 percent of the asphalt shipments in 1968. Emulsified and cutback asphalts accounted for the remaining 23.0 percent.

Native Asphalt:

Gilsonite, and bituminous limestone and sandstone shipments in 1968 totaled 1,786,840 short tons valued at $8,127,000.

Petroleum asphalt, including natural, imported in 1968 totaled 1,134,000 short tons, 3.2 percent less than the 1,172,000 short tons imported in 1967. Exports in 1968 were 86,000 short tons, 3.6 percent greater than the final 1967 export total of 83,000 short tons.

Prepared June 17, 1969 in Mineral Resource Evaluation.

Table 1.—Shipments of petroleum asphalt for consumption in the United States, by type and principal use[1]

(Short tons)

	1964	1965	1966	1967	1968
United States, total	24,045,860	25,027,723	26,437,603	25,802,667	28,379,354
By type:					
Asphalt cements and fluxes	17,856,662	18,519,011	19,603,749	19,503,551	21,855,319
Emulsified asphalts	1,832,389	2,080,876	2,266,825	2,176,194	2,269,304
Cutback asphalts	4,356,789	4,427,836	4,567,029	4,122,922	4,254,731
By principal use:					
Paving products	17,366,521	18,441,367	19,648,172	18,866,855	20,689,912
Roofing products	4,216,846	4,030,873	3,991,764	3,966,862	4,767,042
All other products	2,462,493	2,555,483	2,797,667	2,968,950	2,922,400

1. Excludes domestic bituminous limestone and sandstone, gilsonite and road oil.

Table 3.--Shipments of petroleum-asphalt paving products for consumption in the United States, by F.A.D. Districts and States

(Short tons)

District and State	Asphalt cements		Cutback asphalts		Emulsified asphalts		Total	
	1967	1968	1967	1968	1967	1968	1967	1968
District I:								
Connecticut	138,789	166,378	28,056	30,744	4,291	4,232	171,116	201,354
Delaware	19,426	26,673	2,418	2,758	691	1,714	22,545	31,151
Florida	475,252	469,709	82,387	75,353	47,923	37,654	605,562	582,712
Georgia	377,170	395,006	104,680	78,247	41,147	55,026	522,997	528,277
Maine	75,862	72,831	62,077	53,954	8,101	14,834	146,040	141,619
Maryland and District of Columbia	308,249	291,929	74,888	75,557	78,067	61,372	461,204	428,858
Massachusetts	327,845	287,125	55,662	52,487	323	408	383,830	340,020
New Hampshire	50,693	59,755	22,151	41,232	81	91	72,925	101,078
New Jersey	401,322	409,250	73,337	83,346	24,336	30,511	499,015	523,107
New York	617,432	619,998	244,344	229,456	140,179	113,972	1,002,155	963,426
North Carolina	372,027	395,394	72,672	74,177	121,358	116,979	566,257	586,550
Pennsylvania	600,311	661,447	200,354	199,041	87,980	76,571	888,645	935,059
Rhode Island	103,773	190,667	12,564	10,818	824	443	117,161	201,928
South Carolina	220,269	196,471	21,706	19,134	56,876	60,016	298,849	275,641
Vermont	31,737	39,745	25,449	24,952	423	643	57,609	65,340
Virginia	282,926	312,743	98,390	98,084	45,412	67,298	426,728	478,125
West Virginia	64,381	68,926	27,808	30,716	5,331	11,434	97,520	111,076
District I, total	4,467,454	4,644,247	1,207,143	1,180,076	663,561	651,198	6,338,158	6,475,521
District II:								
Illinois	334,998	619,323	220,748	304,933	33,542	41,295	589,288	965,551
Indiana	297,213	330,861	163,444	200,122	207,273	230,402	667,930	781,385
Iowa	337,619	339,826	88,552	104,344	37,411	38,246	463,582	482,414
Kansas	223,900	136,386	183,357	197,098	22,561	28,849	429,818	362,333
Kentucky	259,136	358,345	78,087	60,849	105,067	114,224	442,290	533,438
Michigan	347,362	421,273	47,851	43,074	77,891	79,055	473,204	543,402
Minnesota	289,532	334,755	132,550	123,953	36,889	30,687	458,991	489,395
Missouri	224,040	286,359	297,120	385,591	3,828	7,719	526,988	679,669
Nebraska	58,413	80,171	43,858	56,480	584	2,245	102,857	138,896
North Dakota	103,708	106,690	55,840	59,600	85,417	73,710	244,965	236,000
Ohio	503,675	658,821	347,139	317,073	145,402	181,499	996,216	1,157,393
Oklahoma	314,130	381,426	171,034	167,042	4,306	6,509	489,472	555,017
South Dakota	56,488	67,623	36,373	40,761	4,964	13,797	117,825	122,181
Tennessee	394,318	489,466	38,083	52,996	136,349	134,032	568,750	676,494
Wisconsin	274,699	275,380	101,254	62,977	11,204	20,173	387,157	358,530
District II, total	3,999,253	4,906,703	2,025,390	2,172,953	914,690	1,002,442	6,939,333	8,082,098
District III:								
Alabama	228,003	221,607	38,313	31,326	100,484	89,281	366,800	342,214
Arkansas	112,418	152,765	66,201	64,201	43,084	38,031	221,703	254,997
Louisiana	175,228	110,229	21,927	19,842	54,243	40,270	251,398	170,341
Mississippi	240,224	234,657	6,854	7,491	13,370	17,898	262,448	260,046
New Mexico	136,633	195,733	64,825	64,199	9,974	10,876	211,432	270,808
Texas	824,944	809,764	201,270	202,557	43,578	30,108	1,069,792	1,042,429
District III, total	1,717,450	1,724,755	399,390	389,616	266,733	246,464	2,383,573	2,360,835
District IV:								
Colorado	220,421	327,384	41,786	72,478	5,960	6,888	268,165	406,750
Idaho	53,752	60,124	40,361	31,132	6,909	8,346	101,222	99,602
Montana	124,368	154,382	48,452	47,241	13,432	16,330	186,452	218,353
Utah	139,762	131,014	33,870	36,614	348	4,841	173,980	172,469
Wyoming	68,909	147,293	29,387	39,693	349	186	98,345	187,172
District IV, total	607,412	820,397	194,054	227,158	26,898	36,791	828,364	1,084,346
District V:								
Alaska	16,254	14,438	4,536	3,521	2,731	1,182	23,521	19,161
Arizona	163,200	223,405	45,503	48,155	48,967	54,146	259,670	325,706
California	1,132,309	1,332,817	113,897	118,036	116,813	130,397	1,363,019	1,581,250
Hawaii	32,259	42,030	2,767	2,548	421	460	35,447	45,038
Nevada	98,096	66,230	20,076	11,620	3,970	4,778	122,142	82,628
Oregon	181,712	183,190	29,284	37,719	30,018	33,246	241,014	254,155
Washington	236,940	292,744	80,882	63,329	14,792	23,081	332,614	379,154
District V, total	1,862,770	2,134,894	296,945	284,928	217,712	247,290	2,377,427	2,687,112
United States, total	12,654,339	14,230,996	4,122,922	4,254,731	2,089,594	2,184,185	18,866,855	20,689,912

Table 3.--Shipments of petroleum-asphalt roofing products for consumption in the United States, by P.A.D. Districts and States

(Short tons)

District and State	Asphalt cement and fluxes		Emulsified asphalts		Total	
	1967	1968	1967	1968	1967	1968
District I:						
Connecticut	2,778	5,637	-	-	2,778	5,637
Delaware	91,861	79,874	-	-	91,861	79,874
Florida	130,536	135,481	3	19	130,539	135,500
Georgia	148,307	145,457	11	-	148,318	145,457
Maine	145	112	-	-	145	112
Maryland and District of Columbia	80,581	81,489	97	181	80,678	81,670
Massachusetts	89,648	90,198	2	23	89,650	90,221
New Hampshire	-	-	-	-	-	-
New Jersey	240,597	254,840	2	1	240,599	254,841
New York	19,665	31,248	-	12	19,665	31,260
North Carolina	46,477	49,518	-	13	46,477	49,531
Pennsylvania	261,821	286,314	238	306	262,059	286,320
Rhode Island	10,241	4,652	-	-	10,241	4,652
South Carolina	64,583	80,215	35	19	64,618	80,234
Vermont	1	-	-	-	1	-
Virginia	10,522	8,314	-	4	10,522	8,318
West Virginia	1,031	44,873	-	32	1,031	44,905
District I, total	1,198,994	1,298,222	388	510	1,199,382	1,298,732
District II:						
Illinois	486,871	734,996	-	-	486,871	734,996
Indiana	136,419	159,474	-	14	136,419	159,488
Iowa	2,704	2,730	-	139	2,704	2,869
Kansas	21,839	22,272	-	-	21,839	22,272
Kentucky	9,588	10,246	-	1	9,588	10,247
Michigan	85,988	103,038	-	3	85,988	103,041
Minnesota	133,698	138,490	-	-	133,698	138,490
Missouri	218,643	197,975	-	119	218,643	198,094
Nebraska	5,410	4,614	-	-	5,410	4,614
North Dakota	3,159	3,649	-	-	3,159	3,649
Ohio	199,148	601,322	22	4,721	199,170	606,043
Oklahoma	85,248	43,388	-	-	85,248	43,388
South Dakota	2,613	2,490	-	-	2,613	2,490
Tennessee	45,395	52,787	-	-	45,395	52,787
Wisconsin	11,165	10,937	-	-	11,165	10,937
District II, total	1,447,888	2,088,408	22	4,997	1,447,910	2,093,405
District III:						
Alabama	158,582	153,135	189	937	158,771	154,072
Arkansas	113,604	129,251	-	-	113,604	129,251
Louisiana	119,407	123,227	18	1	119,425	123,228
Mississippi	11,528	8,325	-	-	11,528	8,325
New Mexico	7,540	14,818	-	-	7,540	14,818
Texas	337,348	366,689	17	1	337,365	366,690
District III, total	748,009	795,445	224	939	748,233	796,384
District IV:						
Colorado	42,504	40,323	5	-	42,509	40,323
Idaho	3,414	3,094	-	7	3,414	3,101
Montana	3,200	3,100	-	-	3,200	3,100
Utah	15,872	16,413	152	-	16,024	16,413
Wyoming	1,028	1,250	-	-	1,028	1,250
District IV, total	66,018	64,180	157	7	66,175	64,187
District V:						
Alaska	645	2,123	-	8	645	2,131
Arizona	111	1	-	-	111	1
California	418,652	416,975	233	239	418,885	417,214
Hawaii	5,625	6,269	2	36	5,627	6,304
Nevada	1,182	847	1	1	1,183	848
Oregon	38,602	41,726	3	67	38,605	41,793
Washington	40,007	45,697	99	346	40,106	46,043
District V, total	504,824	513,637	338	697	505,162	514,334
United States, total	3,965,733	4,759,892	1,129	7,150	3,966,862	4,767,042

Table 4.--Shipments of all other petroleum-asphalt products for consumption in the United States, by P.A.D. Districts and States

(Short tons)

District and State	Asphalt cements and fluxes		Emulsified asphalts		Total	
	1967	1968	1967	1968	1967	1968
District I:						
Connecticut	33,574	35,324	574	1,007	34,148	36,331
Delaware	1,090	16,994	24	24	1,114	17,018
Florida	80,667	117,167	853	995	81,520	118,162
Georgia	124,463	104,045	910	899	125,373	104,944
Maine	2,153	2,360	228	193	2,381	2,553
Maryland and District of Columbia	45,573	34,968	1,486	1,600	47,059	36,568
Massachusetts	77,315	75,170	2,306	1,914	79,621	77,084
New Hampshire	13	208	159	62	174	270
New Jersey	269,707	293,440	931	1,016	270,638	294,456
New York	40,144	28,581	3,166	2,645	43,310	31,226
North Carolina	67,664	64,814	1,982	1,486	69,646	66,300
Pennsylvania	94,657	92,402	6,399	6,256	101,056	98,658
Rhode Island	9,032	6,044	298	259	9,330	6,303
South Carolina	2,099	16,108	14,000	91	16,099	16,199
Vermont	392	1,105	29	29	421	1,134
Virginia	13,434	12,925	1,723	3,552	15,157	16,477
West Virginia	540	728	145	126	685	854
District I, total	862,319	902,383	35,213	22,154	897,732	924,537
District II:						
Illinois	809,817	676,704	8,954	14,849	818,771	691,553
Indiana	89,592	109,310	712	473	90,304	109,783
Iowa	5,876	5,474	2,185	1,112	8,061	6,586
Kansas	10,310	14,003	15	29	10,325	14,032
Kentucky	14,600	1,233	497	655	15,097	1,890
Michigan	44,212	53,349	3,857	5,088	48,069	58,437
Minnesota	89,821	18,972	714	695	90,535	19,667
Missouri	62,358	40,201	3,265	3,218	64,623	43,419
Nebraska	5,477	7,939	111	510	5,588	8,449
North Dakota	636	661	7	31	643	692
Ohio	165,466	184,541	8,163	4,240	173,629	188,781
Oklahoma	37,722	40,257	13	208	37,735	40,465
South Dakota	2,387	526	-	-	2,387	526
Tennessee	41,282	34,817	215	345	41,497	35,162
Wisconsin	42,264	27,898	2,283	1,124	44,551	29,014
District II, total	1,421,824	1,216,099	29,991	32,577	1,451,815	1,248,676
District III:						
Alabama	13,902	21,877	881	804	14,783	22,681
Arkansas	14,807	17,704	221	160	15,028	17,864
Louisiana	90,254	132,061	843	444	91,097	132,505
Mississippi	13,750	10,506	304	303	14,054	10,809
New Mexico	844	3,052	105	162	971	3,214
Texas	281,927	344,486	5,995	7,748	287,822	352,234
District III, total	415,606	529,686	8,349	9,621	423,755	539,307
District IV:						
Colorado	2,890	4,623	21	192	2,911	4,815
Idaho	199	331	26	47	225	378
Montana	97	146	1	9	98	155
Utah	4,792	5,244	10	6	4,802	5,250
Wyoming	317	147	-	-	317	147
District IV, total	8,293	10,491	58	254	8,353	10,745
District V:						
Alaska	508	937	2	183	510	1,120
Arizona	2,234	2,237	429	344	2,663	2,581
California	104,157	111,614	9,353	9,956	113,510	121,570
Hawaii	59	66	154	381	213	447
Nevada	498	707	90	247	588	954
Oregon	48,922	50,038	1,155	1,443	50,077	51,481
Washington	19,057	20,173	677	809	19,734	20,982
District V, total	175,435	185,772	11,860	13,363	187,295	199,135
United States, total	2,883,479	2,844,431	85,471	77,969	2,968,950	2,922,400

Table 1.--Shipments of petroleum-asphalt and road oil for consumption in the United States, by P.A.D. Districts and States

(Short tons)

District and State	Asphalts					Road oil	
	1968				1967	1968	1967
	Cement and fluxes	Emulsified	Cutback	Total	Total	Total	Total
District I:							
Connecticut	207,539	5,239	30,744	243,522	208,042	-	-
Delaware	123,543	1,738	2,758	128,039	115,520	-	-
Florida	702,357	38,668	75,353	816,378	817,621	484	1,100
Georgia	644,506	55,925	78,247	778,678	796,888	-	-
Maine	75,303	15,027	53,954	144,284	148,566	-	-
Maryland and District of Columbia	408,386	63,153	75,557	547,096	588,941	-	-
Massachusetts	452,483	2,345	52,487	507,325	553,101	-	-
New Hampshire	59,963	153	41,232	101,348	73,099	-	-
New Jersey	937,330	31,528	83,346	1,072,404	1,010,252	108	390
New York	679,827	116,629	229,456	1,025,912	1,065,130	481	-
North Carolina	509,726	118,478	74,177	702,381	682,380	-	1,040
Pennsylvania	1,040,163	81,033	199,041	1,320,237	1,251,760	4,275	4,494
Rhode Island	201,363	702	10,818	212,883	136,732	-	-
South Carolina	292,794	60,126	19,154	372,074	379,566	-	-
Vermont	40,850	672	24,952	66,474	58,031	-	-
Virginia	333,982	70,854	98,084	502,920	450,407	56	-
West Virginia	114,527	11,592	30,716	156,835	99,236	113	-
District I, total, 1968	6,844,852	673,862	1,180,076	8,698,790	-	5,517	-
District I, total, 1967	6,528,967	699,162	1,207,143	-	8,435,272	-	7,024
District II:							
Illinois	2,031,023	56,144	304,933	2,392,100	1,894,930	199,997	200,185
Indiana	619,645	230,889	200,122	1,050,656	894,653	16,963	5,662
Iowa	348,028	39,497	104,344	491,869	474,347	14,088	13,460
Kansas	172,661	28,878	197,098	398,637	461,982	162	216
Kentucky	369,826	114,880	60,859	545,575	466,975	10,458	463
Michigan	577,880	84,146	43,074	705,100	607,261	14,000	10,685
Minnesota	492,217	31,382	123,953	647,552	663,224	82,591	18,760
Missouri	524,535	11,056	385,591	921,182	810,254	50,802	91,532
Nebraska	92,724	2,755	56,480	151,959	113,855	5,147	3,937
North Dakota	111,000	73,741	55,600	240,341	248,767	18,339	18,786
Ohio	1,444,684	190,460	317,073	1,952,217	1,369,015	7,340	9,510
Oklahoma	465,071	6,717	167,082	638,870	612,455	20,537	18,518
South Dakota	70,639	13,797	40,761	125,197	122,825	14,749	14,568
Tennessee	577,070	134,377	52,996	764,443	655,642	2,015	51
Wisconsin	314,207	21,297	62,977	398,481	442,873	148,404	119,875
District II, total, 1968	8,211,210	1,040,016	2,172,953	11,424,179	-	605,592	-
District II, total, 1967	6,768,965	944,703	2,025,390	-	9,839,058	-	928,218
District III:							
Alabama	395,619	91,022	31,326	518,967	540,354	141	26
Arkansas	299,720	38,194	64,201	402,112	350,335	2,487	706
Louisiana	365,517	40,715	19,842	426,074	461,920	1,489	1,170
Mississippi	253,688	18,201	7,491	279,180	288,030	-	-
New Mexico	213,603	11,038	64,199	288,840	219,943	3,294	3,482
Texas	1,520,939	57,857	202,557	1,781,353	1,694,979	67,812	52,538
District III, total, 1968	3,049,886	257,026	389,616	3,696,526	-	75,223	-
District III, total, 1967	2,880,865	275,306	399,390	-	3,555,561	-	57,922
District IV:							
Colorado	372,330	7,080	72,478	451,888	313,585	29,760	23,164
Idaho	63,349	8,400	31,132	103,081	104,861	29,370	15,665
Montana	157,828	16,339	47,241	221,408	189,750	19,425	14,798
Utah	152,671	4,847	36,614	194,132	194,806	9,022	11,973
Wyoming	148,690	186	39,693	188,369	99,890	12,665	9,404
District IV, total, 1968	895,068	37,052	227,158	1,159,278	-	100,242	-
District IV, total, 1967	681,725	27,113	194,054	-	902,892	-	75,004
District V:							
Alaska	17,518	1,373	3,521	22,412	24,676	363	-
Arizona	225,643	34,490	48,155	328,288	262,444	107,890	99,690
California	1,861,406	140,592	118,036	2,120,034	1,895,414	215,079	211,125
Hawaii	48,384	877	2,548	51,809	41,287	413	217
Nevada	67,784	5,726	11,620	84,430	123,913	18,329	17,711
Oregon	274,934	34,756	37,719	347,429	329,696	20,412	21,877
Washington	328,614	24,234	63,329	446,179	392,454	4,617	14,649
District V, total, 1968	2,824,303	261,350	284,928	3,400,581	-	367,103	-
District V, total, 1967	2,543,029	229,910	296,965	-	3,069,884	-	365,269
United States, total, 1968	21,825,319	2,269,304	4,254,731	28,379,354	-	1,153,677	-
United States, total, 1967	19,403,351	2,176,194	4,122,922	-	25,802,667	-	1,033,437

NO. 72-2152

In the United States Court of Appeals
for the Ninth Circuit

[Filed February 5, 1973]

In Re Coordinated Pre-Trial Proceedings In Western Liquid Asphalt Cases

Copp Paving Company, Inc.; Copp Equipment Company, Inc.; and Ernest A. Copp,
Appellants,

vs.

Gulf Oil Company; Union Oil Company of California; Industrial Asphalt, Inc.; Sully-Miller Contracting Company; and Edgington Oil Company,
Respondents.

APPELLANTS' REPLY BRIEF

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[Text of Appellants' Reply Brief, and Appendix I thereto not designated]

[Appendix II to Appellants' Reply Brief follows]

No. 884. Designated Federal-Aid Highway Systems, 1970, and Projects, 1971—States and Puerto Rico

[Systems as of December 31, and projects as of June 30. Projects comprise those financed from the Federal-aid primary, secondary, urban, rural, TOPICS (urban traffic operations program to increase capacity and safety), and Interstate funds. See text, pp. 533 and 534]

State or other area	Systems (miles), 1970					Projects, 1971[1]					
		Primary				Completed during fiscal year			Under construction		
	Total	National system of interstate highways		Secondary		Miles	Total cost (mil. dol.)	Federal funds (mil. dol.)	Miles	Total cost (mil. dol.)	Federal funds (mil. dol.)
		Total	Open to traffic								
Total	371,817	42,568	31,543	647,492		11,845	5,010	3,818	15,867	16,980	11,773
United States	370,960	42,568	31,543	646,286		11,344	4,904	3,615	15,222	16,210	11,709
Alabama	6,254	856	691	15,533		147	61	57	228	441	263
Alaska	2,033			2,100		106	57	45	204	61	53
Arizona	4,637	1,172	671	7,687		175	87	69	104	128	119
Arkansas	6,117	658	453	14,977		187	83	60	164	180	107
California	9,587	2,266	1,781	15,106		300	240	200	1,238	1,118	1,118
Colorado	8,013	975	720	4,302		198	84	67	232	138	124
Connecticut	1,930	347	270	1,366		14	14	13	16	28	25
Delaware	1,000	41	30	1,670		4	2	2	2	2	2
Dist. of Columbia	158	30	30	127		2	1	1	2	2	2
Florida	6,998	1,897	947	15,072		310	150	135	275	335	302
Georgia	9,121	1,142	720	20,284		335	119	95	557	251	225
Idaho	4,003	433	181	6,686		91	61	55	211	135	121
Illinois	16,874	1,794	1,280	16,074		440	180	162	1,447	415	374
Indiana	9,673	1,134	875	10,014		100	110	99	1,100	212	191
Iowa	10,961	781	547	23,033		882	157	141	1,447	177	159
Kansas	9,344	733	554	24,607		345	110	99	1,100	224	202
Kentucky	7,648	733	554	14,159		60	73	66	1,100	84	76
Louisiana	7,198	313	270	8,922		221	73	66	1,100	84	76
Maine	2,437	254	254	7,777		344	124	112	1,100	84	76
Maryland	2,437	1,115	1,115	2,884		221	124	112	1,100	84	76
Massachusetts	2,437	1,115	1,115	2,884		221	124	112	1,100	84	76
Michigan	9,000	1,115	875	16,775		221	124	112	1,100	84	76
Minnesota	9,000	1,115	875	16,775		221	124	112	1,100	84	76
Mississippi	6,000	1,115	875	16,775		221	124	112	1,100	84	76
Missouri	6,000	1,147	900	25,940		190	117	105	327	227	204
Montana	6,000	1,147	900	17,000		238	134	121	327	227	204
Nebraska	6,000	1,147	900	17,000		238	134	121	327	227	204
Nevada	6,000	1,147	900	17,000		238	134	121	327	227	204
New Hampshire	6,000	1,147	900	17,000		238	134	121	327	227	204
New Jersey	6,000	1,147	900	17,000		238	134	121	327	227	204
New Mexico	6,000	1,147	900	17,000		238	134	121	327	227	204
New York	6,000	1,147	900	17,000		238	134	121	327	227	204
North Carolina	6,000	1,147	900	17,000		238	134	121	327	227	204
North Dakota	6,000	1,147	900	17,000		238	134	121	327	227	204
Ohio	6,000	1,147	900	17,000		238	134	121	327	227	204
Oklahoma	6,000	1,147	900	17,000		238	134	121	327	227	204
Oregon	6,000	1,147	900	17,000		238	134	121	327	227	204
Pennsylvania	6,000	1,147	900	17,000		238	134	121	327	227	204
Rhode Island	6,000	1,147	900	17,000		238	134	121	327	227	204
South Carolina	6,000	1,147	900	17,000		238	134	121	327	227	204
South Dakota	6,000	1,147	900	17,000		238	134	121	327	227	204
Tennessee	6,000	1,147	900	17,000		238	134	121	327	227	204
Texas	6,000	1,147	900	17,000		238	134	121	327	227	204
Utah	6,000	1,147	900	17,000		238	134	121	327	227	204
Vermont	6,000	1,147	900	17,000		238	134	121	327	227	204
Virginia	6,000	1,147	900	17,000		238	134	121	327	227	204
Washington	6,000	1,147	900	17,000		238	134	121	327	227	204
West Virginia	6,000	1,147	900	17,000		238	134	121	327	227	204
Wisconsin	6,000	1,147	900	17,000		238	134	121	327	227	204
Wyoming	6,000	1,147	900	17,000		238	134	121	327	227	204
Puerto Rico	857	0	0	1,206		0	0	0	0	0	0

Represents zero.
[1] Excludes highway planning and research work financed with 1½ percent Federal-aid highway funds available pursuant to 23 U.S.C. 307(c)(2). (Completed, $46 million total cost, $35 million Federal funds; underway, $363 million total cost, $306 million Federal funds.)

Source: U.S. Federal Highway Administration, *Federal Aid and Allied Highway Programs*, 1971.

...n—Land

...and Local Governments for Highway ...erto Rico: 1960 to 1971

...years ending June 30]

State or other area	1960	1965	1969	1970	1971
Mont.					
Nebr.					
Nev.					
N.H.					
N.J.					
N. Mex.					
N.Y.					
N.C.					
N. Dak.					
Ohio					
Okla.					
Oreg.					
Pa.					
R.I.					
S.C.					
S. Dak.					
Tenn.					
Tex.					
Utah					
Vt.					
Va.					
Wash.					
W. Va.					
Wis.					
Wyo.					
Undist. to States, etc.					
P.R.					

...ectively. In millions of dollars. Apportionment, highway ...ramping and outside urban allotment, U.S. and S. and high...

...d Report of the Secretary of the Treasury on the State of

Term Highway Obligations of State ...rts: 1950 to 1972

[Data are for varying fiscal years, 1960 excludes Alaska ...ions, except as noted. Municipal obligations included ...s urban in character. See *Historical Statistics, Colonial ...ial*]

	1950	1960	1970	1971 (prel.)	1972 est.

SECTION J

TRANSPORTATION

Statistics relating to the mileage of roads, expenditures to construct and maintain these roads, gallons of fuel used, and traffic and accident data on all freeways and on rural State highways were compiled for publication by the Urban Planning Department of the Division of Highways, Department of Public Works.

The accident statistics contained in this report are based upon fatal and injury accidents involving a motor vehicle. The reports from which these statistics are compiled are those required to be reported to the California Highway Patrol under Section 20008 of the Vehicle Code. Accidents involving "property damage only" are not required to be reported and, consequently, do not reflect an accurate total.

In addition to the accident data contained in this report for 1970, the Department of California Highway Patrol also received an additional 5,929 reports of motor vehicle accidents which occurred on private property. These accidents resulted in death for 176 persons and injury to 6,907 persons.

World Trade Statistics

The dollar value of foreign trade, as compiled by the United States Department of Commerce, is presented for the three customs districts: Los Angeles, San Diego, and San Francisco.

Leading exports are: food and live animals, with fruit and dried milk playing an important role; crude materials, with raw cotton the number one export; chemicals, including inorganic and hydrocarbons; and machinery and transportation equipment, including non-electrical machine appliances.

Leading imports are: food products, half of which is green coffee; mineral fuels, mostly petroleum; manufactured goods, including newsprint and iron and steel plate; and machinery and transportation equipment, including automobiles and telecommunication equipment. Textile clothing is also becoming an important import.

The statistics on tonnage of inbound and outbound oceanborne cargo were compiled from U.S. Department of Commerce publications.

Other information sources on California world trade and shipping may be obtained from World Trade Center Libraries, San Francisco.

TABLE J-1

STATE HIGHWAY MILEAGE, BY SURFACE TYPE[a] DECEMBER 31, 1970

(Note: Data in this table update the series shown in Tables J-1 and J-7 in the 1970 *California Statistical Abstract*.)

Surface type	Total	Outside cities	Inside cities
Total	16,748	14,148	2,600
Total constructed road	14,568	12,334	2,234
Portland cement concrete	2,315	1,477	838
High type bituminous	9,174	7,929	1,245
Low type bituminous	2,138	2,096	42
Oiled earth, gravel	804	801	3
Graded and drained earth	19	19	0
Bridges	238	134	104
Unconstructed roads	2,179	1,813	366

[a] Centerline mileage only which does not include roadd mileage such as frontage roads, connections, etc.

Business and Transportation Agency
Department of Public Works
Division of Highways, Urban Planning Department

TABLE J-2

STATE HIGHWAY MILEAGE, BY TRAFFIC VOLUME GROUPS, DECEMBER 31, 1970

(Note: Data in this table update the series shown in Table J-2 in the 1970 *California Statistical Abstract*.)

Traffic volume group	Total	Outside cities	Inside cities
Total	14,568	12,334	2,234
Under 400 vehicles per day	1,179	1,179	0
400- 999	2,260	2,253	6
1,000- 1,999	2,243	2,211	32
2,000- 2,200	1,240	1,207	43
3,000- 3,999	1,148	1,106	42
4,000- 4,999	910	861	49
5,000- 9,999	1,794	1,548	246
10,000-14,999	908	671	237
15,000-19,999	458	266	192
20,000-29,999	908	489	419
30,000-39,999	262	131	131
40,000 and over	940	218	722

Business and Transportation Agency
Department of Public Works
Division of Highways, Urban Planning Department

TABLE J-3

HIGHWAY TRAFFIC ENTERING CALIFORNIA THROUGH STATE BORDER QUARANTINE STATIONS, 1970[a]

(Note: Data in this table update the series shown in Table J-8 in the 1970 *California Statistical Abstract*.)

Type of vehicle	Number
Total	9,543,063
Automobiles and buses[b]	8,906,356
Trucks	636,707

[a] Data relate to 1970 calendar year, and therefore differ from state totals shown in Table J-6.
[b] Buses were incorporated with automobiles effective 1970.

Department of Agriculture
Bureau of Plant Quarantine

Source: California Statistical Abstract - 1971

TABLE J-7

CALIFORNIA STATE HIGHWAY SYSTEM, LENGTH IN MILES, 1909-69

Year	Authorized by Legislature	In service		
		Total	Outside cities	Inside cities
1909	3,052	n.a.	n.a.	n.a.
1916	3,754	n.a.	n.a.	n.a.
1919	5,607	n.a.	n.a.	n.a.
1920	6,168	n.a.	n.a.	n.a.
1922	6,400	n.a.	n.a.	n.a.
1924	6,400	n.a.	n.a.	n.a.
1926	6,589	n.a.	n.a.	n.a.
1928	6,565	n.a.	n.a.	n.a.
1930	6,581	n.a.	n.a.	n.a.
1931	7,332	n.a.	n.a.	n.a.
1932	7,347	n.a.	n.a.	n.a.
1934	14,019	13,651	12,651	953
1936	13,871	13,582	12,554	1,028
1938	13,913	13,647	12,613	1,034
1940	13,865	13,642	12,593	1,049
1942	13,867	13,678	12,621	1,057
1944	13,895	13,705	12,645	1,060
1945	13,886	13,717	12,644	1,073
1946	13,892	13,698	12,630	1,068
1947	13,874	13,694	12,687	1,007
1948	13,970	13,733	12,630	1,103
1949	13,994	13,730	12,603	1,127
1950	13,999	13,732	12,581	1,151
1951	13,986	13,445	12,338	1,107
1952	14,223	13,715	12,536	1,179
1953	14,313	13,754	12,547	1,207
1954	14,314	13,769	12,538	1,231
1955	14,279	13,730	12,467	1,263
1956	14,327	13,758	12,388	1,370
1957	14,310	13,771	12,331	1,440
1958	14,482	13,883	12,337	1,546
1959	14,584	14,019	12,419	1,610
1960	14,307	14,034	12,339	1,695
1961	14,388	14,128	12,394	1,734
1962	14,371	14,165	12,368	1,797
1963	14,417	14,173	12,344	1,829
1964	14,415	14,180	12,282	1,918
1965	14,598	14,215	12,249	1,966
1966	14,548	14,264	12,243	2,021
1967	14,599	14,332	12,272	2,060
1968	14,484	14,397	12,282	2,115
1969	14,476	14,501	12,308	2,193

n.a. Not available.
Business and Transportation Agency
Department of Public Works
Division of Highways, Urban Planning Department

TABLE J-8

HIGHWAY TRAFFIC ENTERING CALIFORNIA THROUGH STATE BORDER QUARANTINE STATIONS, 1924-69

Year	Number of vehicles			
	Total	Automobiles	Trucks	Buses
1924	88,671	88,671	--	--
1925	125,542	125,542	--	--
1926	158,595	158,595	--	--
1927	198,675	198,675	--	--
1928	229,854	229,854	--	--
1929	537,417	537,417	--	--
1930	676,052	676,052	--	--
1931	847,320	847,320	--	--
1932	788,609	788,609	--	--
1933	745,108	742,419	--	2,689
1934	899,513	886,243	--	13,270
1935	1,113,510	1,098,511	--	14,999
1936	1,371,986	1,280,331	73,518	18,057
1937	1,612,823	1,520,534	73,801	18,486
1938	1,382,579	1,283,800	80,565	18,214
1939	1,483,936	1,375,891	89,049	19,016
1940	1,631,643	1,509,720	103,073	18,850
1941	1,897,709	1,761,964	114,711	21,034
1942	1,550,744	1,408,394	115,859	26,491
1943	1,042,554	908,091	103,160	31,303
1944	939,666	804,398	101,117	34,151
1945	1,619,527	1,478,830	106,872	35,825
1946	2,669,083	2,491,033	134,713	43,338
1947	2,105,610	1,920,882	140,784	43,944
1948	2,267,364	2,051,581	168,575	46,208
1949	2,242,131	2,021,126	179,324	41,681
1950	2,630,548	2,364,641	226,851	39,056
1951	3,069,226	2,732,124	272,691	44,411
1952	3,374,920	3,067,594	266,977	40,389
1953	3,758,321	3,436,508	274,939	46,474
1954	3,835,242	3,492,068	297,714	45,460
1955	4,119,720	3,793,664	319,774	46,282
1956	4,429,231	4,016,737	365,295	47,239
1957	4,476,857	4,052,006	375,800	49,051
1958	4,734,770	4,302,826	383,543	48,401
1959	5,165,246	4,711,648	406,197	47,401
1960	5,378,204	4,821,084	407,107	50,013
1961	6,234,339	5,770,027	413,695	50,617
1962	7,820,338	7,227,681	435,993	57,642
1963	8,921,629	8,610,150	454,520	56,559
1964	9,525,854	9,008,273	471,485	53,996
1965	9,996,100	9,454,219	489,965	51,916
1966	10,495,015	9,925,488	518,762	50,765
1967	10,640,299	10,044,755	542,779	50,765
1968	10,809,720	10,247,986	593,135	48,599
1969	9,569,504	8,921,184	627,832	20,488

Department of Agriculture
Bureau of Plant Quarantine

TABLE J-9

HIGHWAY TRAFFIC ENTERING CALIFORNIA THROUGH STATE BORDER QUARANTINE STATIONS, BY STATION, JULY 1, 1968 THROUGH JUNE 30, 1969

Station	Highway	Number of vehicles			
		Total	Automobiles	Trucks	Buses
Total		10,813,726	10,152,958	614,374	46,394
Alturas	U. S. 395	153,551	151,154	2,389	8
Borrie	U. S. 97	349,261	329,346	18,034	1,881
Hornbrook	Interstate 5	1,050,630	978,101	66,785	5,744
Redwood Highway	U. S. 199	236,365	233,011	2,886	466
Smith River	U. S. 101	441,589	437,935	2,640	1,040
Tule Lake	State 139	110,620	107,280	2,527	813
Benton[a]	U. S. 6	103,808	92,634	11,128	46
Long Valley	U. S. 395	237,271	233,108	3,534	629
Myers	U. S. 50	1,387,743	1,384,467	1,791	1,485
Topaz[a]	U. S. 395	117,122	116,230	561	331
Truckee	Interstate 80	2,055,153	1,995,101	52,931	7,119
Woodfords[b]	State 88	11,755	11,508	244	1
Blythe	Interstate 10	1,074,683	929,480	134,878	9,664
Needles	Interstate 40	636,257	568,598	65,477	4,282
Searchlight Junction[a]	U. S. 95	29,014	25,460	3,246	310
Vidal	Parker-Desert Center	290,909	282,186	8,421	302
Winterhaven	Interstate 8	937,467	822,570	110,231	4,436
Yuma	Interstate 15	1,590,991	1,514,387	66,671	9,933

[a]Closed November 1, 1968 (now operated on a spot-check basis).
[b]Closed September 1, 1968 (now operated on a spot-check basis).

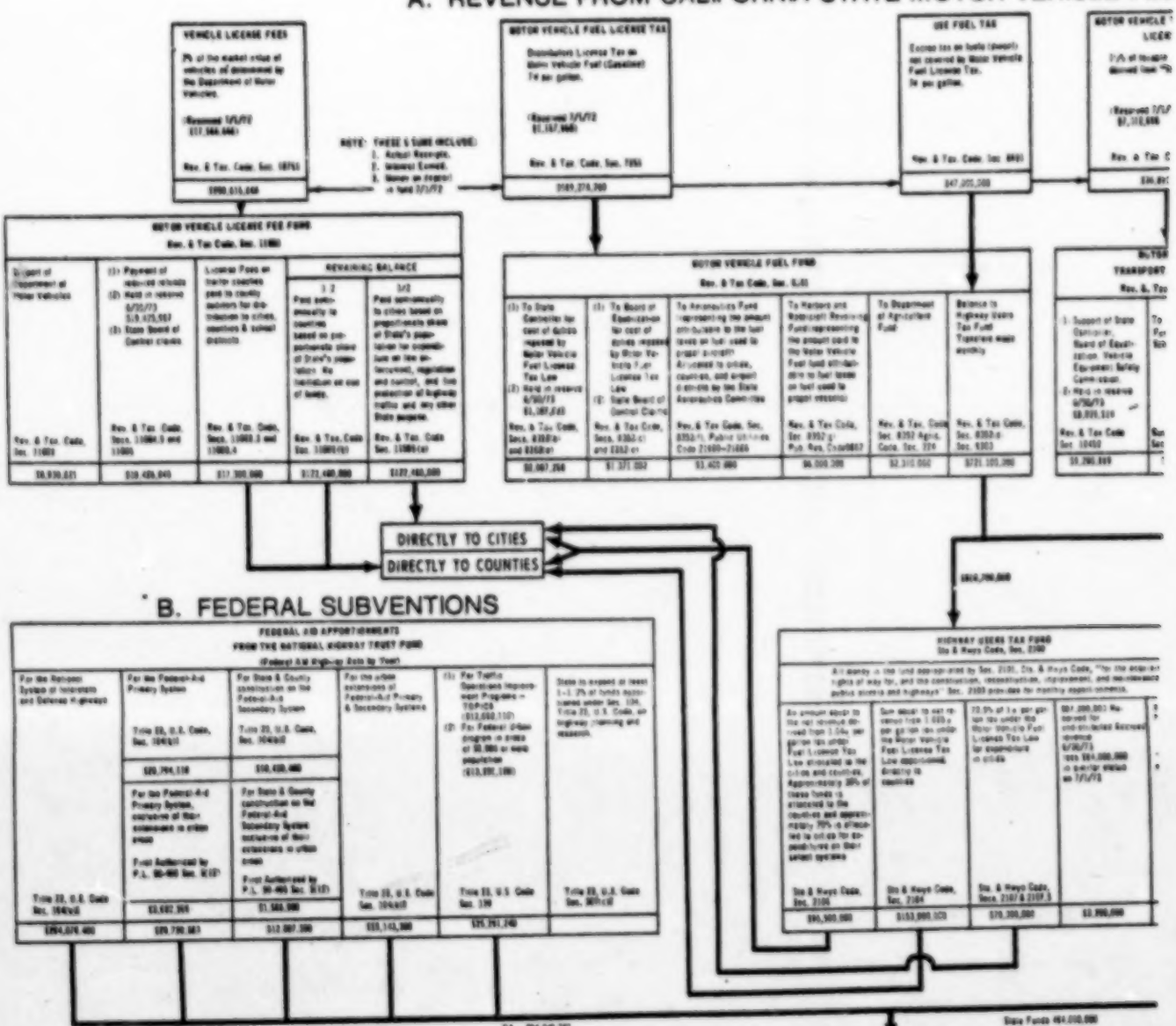
Department of Agriculture
Bureau of Plant Quarantine

Source: California Statistical Abstract - 1970

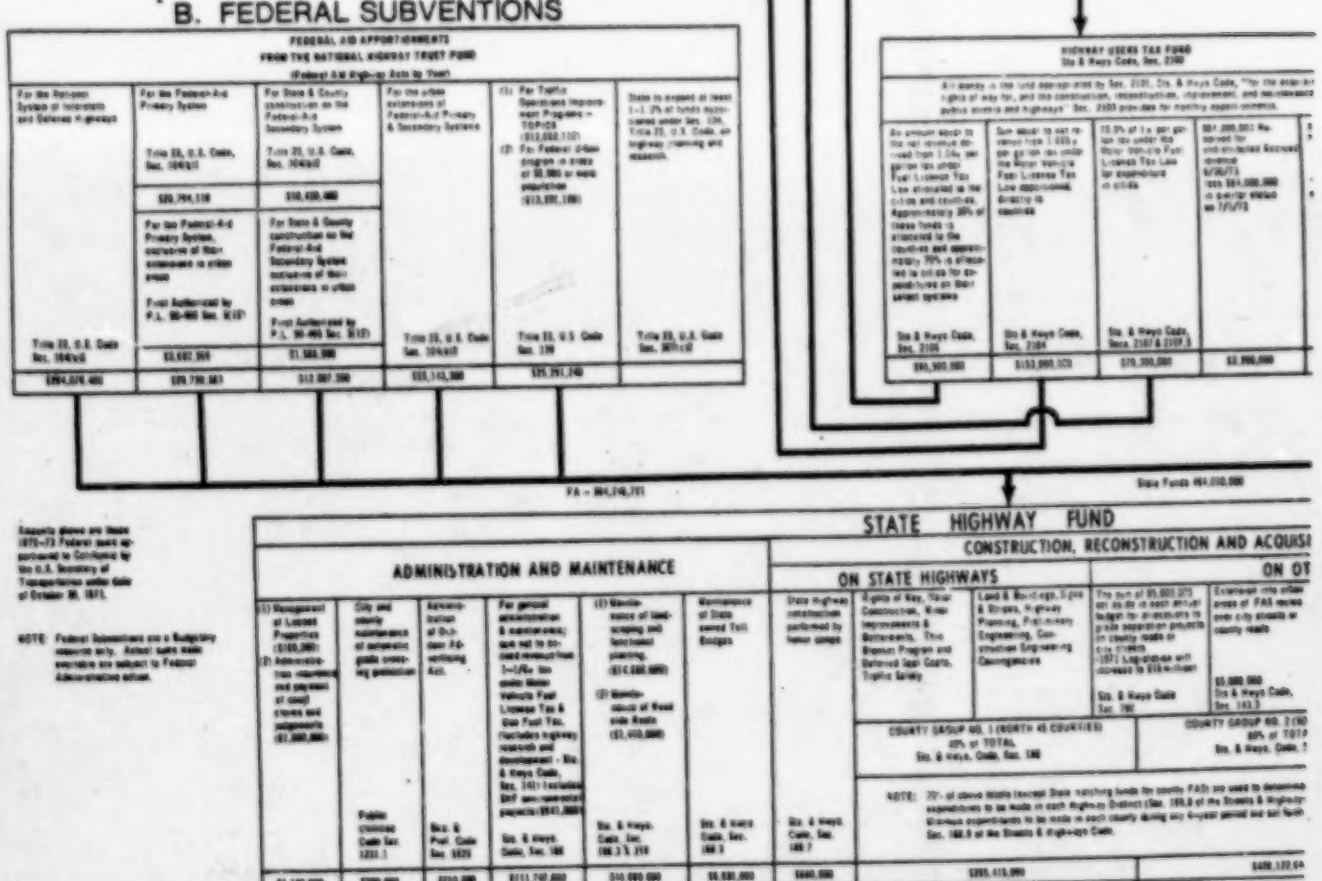
Appendix

BUDGETARY FLOW OF STATE MOTOR VEHICLE FEES AND HIGHWAY USERS TAXES IN CALIFORNIA FOR THE 1972-73 F

A. REVENUE FROM CALIFORNIA STATE MOTOR VEHICLE FEE

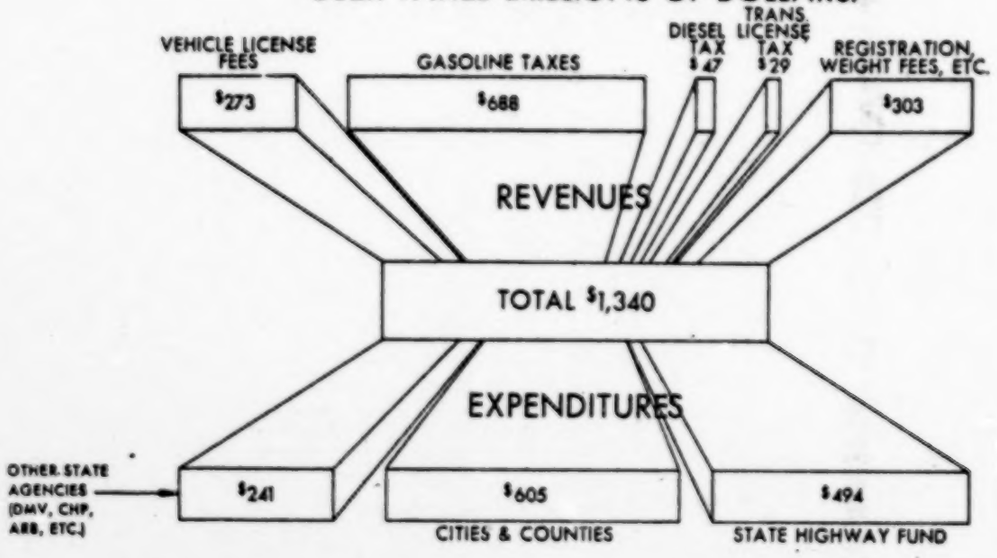


B. FEDERAL SUBVENTIONS

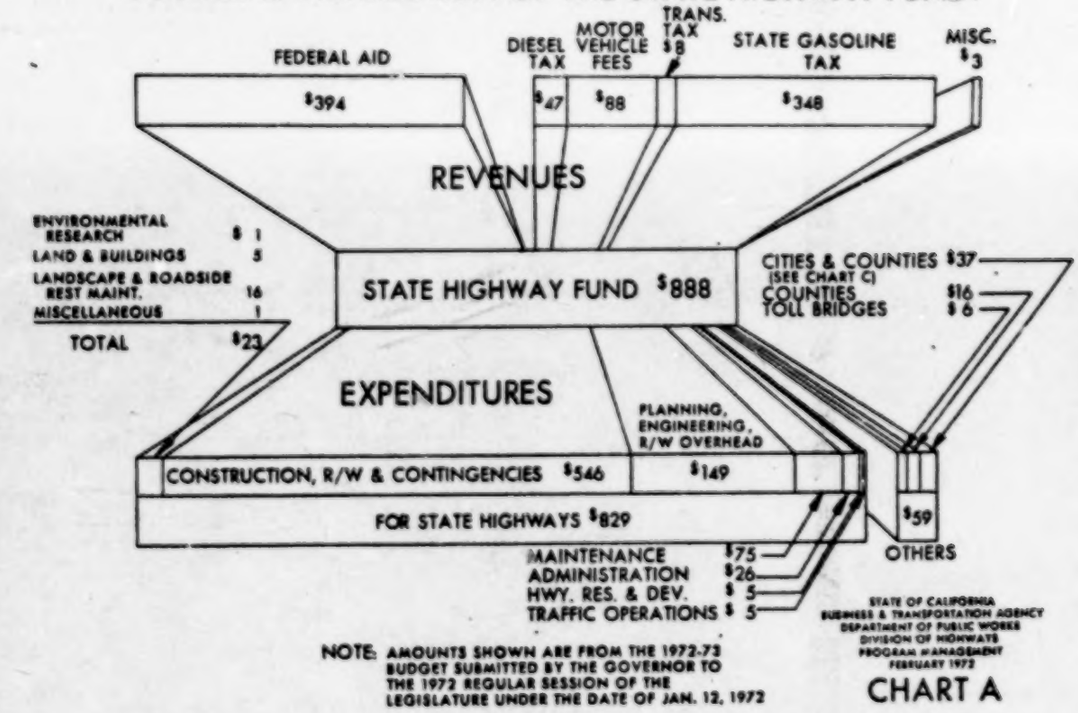


Source: California Division of Highways Publication entitled "California Highway Financing" Rev. May-1972

SOURCE & DISTRIBUTION OF CALIFORNIA STATE MOTOR VEHICLE & USER TAXES (MILLIONS OF DOLLARS)



SOURCE & DISTRIBUTION OF THE STATE HIGHWAY FUND



NOTE: AMOUNTS SHOWN ARE FROM THE 1972-73 BUDGET SUBMITTED BY THE GOVERNOR TO THE 1972 REGULAR SESSION OF THE LEGISLATURE UNDER THE DATE OF JAN. 12, 1972

STATE OF CALIFORNIA
BUSINESS & TRANSPORTATION AGENCY
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS
PROGRAM MANAGEMENT
FEBRUARY 1972

CHART A

Source: California Division of Highways Publication entitled: "California Highway Financing" Rev. May 1972

INTERSTATE COMMERCE EVIDENCE BASED UPON PLAINTIFFS' SWORN STATEMENTS IN PLAINIFFS' ANSWERS TO INTERROGATORIES AND PLAINTIFFS' AFFIDAVITS

1. That each of the defendants is engaged in the business of constructing and supplying materials for the construction of Federal roads and highways planned and controlled by the Federal Government, and likewise financed by the Federal Government under the Streets and Highways Code Annotated, Title 23, Sections 104, et seq. (8 P. 1720)

2. That a substantial portion of the crude oil, which is refined for the purposes of producing the various petroleum products, including liquid asphalt, is brought into the State of California from foreign countries. (8 R 1720)

3. That each of the defendants does business across state lines and does sell and transport across state lines specific asphaltic products which are the subject of competition involving plaintiff Copp (8 R 1721)

4. That there is a multi-state conspiracy, as alleged, and an agreement to divide up the markets between the various competitors on a geographic basis in order to avoid competition, and that this agreement and geographical division has and is presumed to have a direct and substantial affect on interstate trade and commerce. (8 R 1721)

5. That the areas encompassed by defendants attempt to monopolize, conspiracy to monopolize and monopolization were in the states of California, Oregon, Washington, Arizona, Nevada and New Mexico. (8 R 1722)

6. That the business of paving Federal and interstate highways is "in commerce". (8 R 1722)

7. That with respect to the oil refiners, who also refine liquid asphalt in this case, a substantial portion of their crude petroleum comes from across state lines, a substantial portion of the liquid

asphalt products are shipped across state lines, and a vast preponderance of liquid asphalt produced by the refiners is ultimately applied on interstate federal roads and highways which are "in commerce". (8 R 1723-1724)

8. That with respect to contractors and dealers in liquid asphalt in this case, such contractors and dealers do business across state lines, ship their products across state lines, and a substantial portion of their work, which is constructing highways, is performed on interstate and federal highways which are, by definition, "in commerce". (8 R 1724)

9. That approximately 85% of the liquid asphalt business within Los Angeles County is controlled by Industrial Asphalt and Sully-Miller. (8 R 1724).

10, That Sully-Miller and Industrial each does business across state lines, and a substantial portion of their business is in the construction and maintenance of interstate and federal highways which is "in commerce". (8 R 1725).

11. That Industrial and Sully-Miller are producers of asphaltic concrete, which is produced for the specific purpose of applying same to interstate and federal highways, and a substantial portion of the business of each defendant is in the construction of interstate and federal highways. (8 R 1726)

12. That Industrial maintains and owns plants in Arizona and Nevada and regularly ships its products across state lines to Arizona and Nevada. (8 R 1728)

13. That a substantial portion of the work performed by Industrial is on interstate and federal roads. (8 R 1729)

14. That Sully-Miller does business across state lines, including, but not limited, to transactions in Utah and Thailand. (8 R 1729)

15-16. That Sully-Miller's business is that of a contractor whose major business is that of paving and constructing interstate highways and that a substantial portion of their work is on federal interstate highways. (8 R 1729).

17. Beginning at a date unknown to plaintiffs and continuing at least to the date of the filing of this complaint, defendants, and each of them together with the co-conspirators, have engaged in a continuous agreement, combination, conspiracy and concert of action in the State of California, including the County of Los Angeles, and in other western states of the United States, in unreasonable restraint of commerce and trade, in the sale of hot asphalt oil, asphaltic concrete, and in the business of grading and paving of roads and highways and the defendants, and each of them, have purposely and with deliberate and specific intent, attempted to monopolize, conspired with each other and the co-conspirators, to monopolize and did monopolize, the aforesaid trade and commerce, all in violation of Sections 1 and 2 of the Sherman Act.

18. One of the purposes and objectives of the aforesaid combination and conspiracy to restrain and the combination and conspiracy to monopolize, attempt to monopolize and monopolization has been the destruction and elimination of plaintiffs as a viable entity so that:

(a) Plaintiffs would be eliminated as a competitor of Industrial and Sully-Miller;

(b) Plaintiffs would be penalized for remaining as an independent competitor in the manufacture and sale of asphaltic concrete, and in the business of grading and paving highways and roads.

19. In furtherance of the above-described violation of said antitrust laws, the defendants, and each of them, together with the co-conspirators, agreed to and in fact engaged, among other things, in the following acts and practices:

(a) Fixed, stabilized and maintained the prices at which hot asphalt oil would be sold to end users, including governmental agencies and to hot plant owners, including plaintiffs;

(b) Allocated and exchanged between each other supplies of crude petroleum and petroleum products, including, but not limited to supplies of hot asphalt;

(c) Fixed, stabilized and maintained the prices at which asphaltic concrete would be sold to end users, including governmental agencies, and to contractors;

(d) Eliminated competition and obtained and exercised monopoly power in the operation of hot plants and in the sale of asphaltic concrete by acquiring ownership and control of a substantial number of hot plants, including more than sixty per cent (60%) of all the hot asphalt plants operated in Southern California and in Los Angeles and Orange Counties;

(e) Allocated and divided, on a geographic basis and upon a customer basis, the outlets to whom hot asphalt oil and asphaltic concrete would be sold;

(f) Sold asphaltic concrete at unreasonably low prices in the areas in which they competed with plaintiffs and subsidized said unreasonably low prices by artificially maintaining prices in other areas in which plaintiffs did not compete;

(g) Sold and installed asphaltic concrete at or below cost in areas where plaintiffs competed with defendants and subsidized said sales by artificially maintaining higher prices in areas where plaintiffs did not compete;

(h) Threatened actual and potential customers of plaintiffs that unless they refrained from purchasing asphaltic concrete from plaintiffs in plaintiffs' area of competition, that said customers would be unable to obtain supplies of asphaltic concrete at a competitive price in other areas where said customers had no other source of supply other than defendants;

(i) Extended unreasonably advantageous credit terms to customers in order to preclude said customers from purchas-

ing asphaltic concrete from any other suppliers, including plaintiffs;

(j) Required customers who were indebted to defendants to purchase all of their asphaltic concrete from said defendants upon threat of immediately enforcing the collection of outstanding debt, thereby precluding said customers from purchasing asphaltic concrete from other suppliers, including plaintiffs;

(k) Tied the sale of other commodities, including base rock material, and tied the availability of credit to the sale of asphaltic concrete so as to induce and require purchasers of asphaltic concrete to purchase their supply thereof from Sully-Miller and not to purchase their supply from third parties, including plaintiffs;

(l) Sold hot asphalt oil and asphaltic concrete in such a manner as to discriminate in price between purchasers of such commodities of like grade and quality where the effect of such discrimination was to substantially lessen competition and tended to create a monopoly;

(m) Gulf acquired all of the capital stock of Industrial, as hereinabove alleged, and the effect thereof may be substantially to lessen competition and to tend to create a monopoly, in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended; and

(n) Union acquired all of the capital stock of Sully-Miller, as hereinabove alleged, and the effect of that acquisition may be substantially to lessen competition, and to tend to create a monopoly, in violation of Section 7 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, 15 U.S.C., Section 18, as amended." (Paragraphs 17 through 19(n)—8 R 1716—1720)

INTERSTATE COMMERCE EVIDENCE BASED UPON DEFENDANTS' ADMISSIONS

1. All defendants, except Edgington Oil Company, expressly admitted the following facts pertaining to the relationship between the Federal Government and the interstate and Federal system highways in the State of California:

(a) The Federal Government contributes a portion of the cost of construction of public highways; that the basis of Federal participation is the Federal Aid Highway Act (23 USC Section 101 through 14); that under that Act, the Federal Government assumes about 90% of the highway construction costs; that to qualify for such aid, state standards are required as to vehicle weight and width limitations (23 USC Section 127), control of outdoor advertising (23 USC Section 135), creation of highway safety program (23 USC Section 135), control over junk yards (23 USC Section 136); that each project is subject to the inspection and approval of the Safety of Transportation and was formerly under the control of the Secretary of Commerce; that all wages paid for laborers and mechanics employed by contractors or subcontractors own roads funded by the Federal Act are controlled by the David-Bacon Act (23 USC Section 113); that small business enterprises are to be assisted in obtaining contracts under the Federal Aid Highway Act in order to encourage full and free competition under 23 USC Section 304; that to obtain State Aid a satisfactory Highway Department must be established (23 USC Section 101); that the State of California has qualified and receives funds and consents specifically to the provisions of Title 23; that the State of California has apportioned 98.5% of the monies received by it under the 1950 Act for the improvement of county highways; that defendant Sully-Miller and defendant Industrial must comply with Executive Order No. 11246

dated September 24, 1965, in order to perform work on county roads funded under the Federal Highway Aid Act. (8 R 1763-1768; 1800-1805; 1875-1878; 1907-1912)

GULF OIL CORPORATION

2. Gulf refines crude oil at its Santa Fe Springs Refinery. From 1965 to 1970 the crude oil refined at this refinery ranged from a total of 16 million to 17.5 million barrels per year. During said period the crude oil refined at this refinery included foreign crude ranging from 4.3 million barrels to 7.6 million barrels per year and Utah crude ranging from 980,000 to 4.2 million barrels per year.

3. The asphalt yield from all of the crude oil refined during this same period ranged from 1 million barrels to 1.3 million barrels per year (8 R 1755).

4. Gulf sold all of its liquid asphalt to its subsidiary Industrial Asphalt (8 R 1572).

INDUSTRIAL ASPHALT COMPANY

5. Industrial admits that it purchases liquid asphalt produced from imported and domestic crude petroleum which it used in the manufacture of asphaltic concrete (1 R 48).

6. Industrial owned 55 hot plants, including a plant in Las Vegas—Henderson, Nevada and a plant in Phoenix, Arizona (8 R 1866).

7. Industrial made sales of liquid asphalt, among other places, in Arizona, California, Nevada and Utah. A schedule showing Industrial's customers is contained at 8 R 1859-1862. Industrial purchased liquid asphalt from 1964 through 1969 from approximately 12 additional suppliers, including the Arizona Refining Co. (8 R 1963-1965).

8. From 1964 to 1970 Industrial's California plants total asphaltic concrete sales ranged from 3.9 million tons to 5.2 million tons, its asphaltic concrete sales from its Phoenix plant ranged from 5,000 tons to 277,000 tons, and its asphaltic concrete sales from its plant in Las Vegas—Henderson, Nevada were 21,000 tons in 1969 and 91,000 tons in 1970 (8 R 1856).

UNION OIL COMPANY

9. During the period 1966 to 1970 Union, at its California refineries, refined between 64 million and 70 million barrels of crude oil per year. The out-of-state source of this crude (including other states and foreign sources) ranged from 2.4 million barrels per year to 15 million barrels per year (8 R 1787).

10. During the same period, Union's production of tons of liquid asphalt from its three refineries in Los Angeles, Santa Maria and San Francisco was: Los Angeles—163,000 tons to 225,000 tons per year; Santa Maria—34,000 tons to 42,000 tons per year; San Francisco—116,000 tons to 16,000 tons per year.

11. Union admits that Union ships liquid asphalt to customers located in other states of the United States (1 R 57). Union further admits that Union sells liquid asphalt to end users and contractors and that such liquid asphalt, as hot asphalt oil, or in some other cases as a constitutent of asphaltic concrete, is used for constructing, maintaining, surfacing, re-surfacing and repairing of roads and highways, including federal interstate system highways and highways directly connected to interstate highways (1 R 57).

SULLY-MILLER CONTRACTING CO.

12. Sully-Miller admits that liquid asphalt is obtained from refining crude petroleum in some cases domestic and in other cases foreign (1 R 64). That such liquid asphalt, in some cases, is used directly and in other cases is used as one of the constituents of asphaltic concrete for constructing, maintaining, surfacing, re-surfacing and repairing roads and highways, including federal interstate system highways and highways directly connected to interstate highways (1 R 65).

13. Sully-Miller owns 11 hot plants generally in Southern California (8 R 1897-1898).

14. Sully-Miller admits that Edgington sells hot asphalt oil to customers outside of California (8 R 1914).

EDGINGTON OIL COMPANY

15. From 1964 to 1969 Edgington processed crude oil ranging from 2.4 million barrels to 3.2 million barrels per year (8 R 1821).

16. During the years 1964 through 1969 Edgington produced asphalt ranging from 1 million barrels to 1.4 million barrels per year (8 R 1823-1824).

17. Edgington's shipments of liquid asphalt to Nevada was 69 tons in 1964; 1436 tons in 1965; and 134 tons in 1966 (8 R 1826).

The opinion of the United States Court of Appeals for the Ninth Circuit, filed October 3, 1973, in In re Coordinated Pretrial Proceedings in Western Liquid Asphalt Cases, Copp Paving Company, Inc., et al., Appellants, v. Gulf Oil Company, et al., Appellees, No. 72-2152 therein, is printed as Appendix B to the Petition for Writ of Certiorari in this cause, and is incorporated herein by reference.